RECESS.

Mr. SMOOT. Mr. President, I ask unanimous consent that the Senate now take a recess until 12 o'clock to-morrow.

There being no objection, the Senate (at 5 o'clock and 50 minutes p. m.) took a recess until to-morrow, Thursday, February 21, 1924, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 20, 1924.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Holy, holy, holy, Lord God Almighty, heaven and earth are filled with Thy glory; glory be to Thy name O Lord most high. We are before Thee again to consecrate these hours with all their responsibilities and provileges to Thee—the Father of all light and wisdom. Give eyes to see the light and hearts to love the truth. We are conscious that it is possible for us to live the fuller life of God. Let Thy hand still lead us on with its strength and mercy. O purify and give rest from all strife the world over until Thy kingdom shall reach everywhere. In the name of Jesus our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from Washington asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. JOHNSON of Washington. Mr. Speaker, I desire the Members of the House to know that I have received from the Secretary of State, addressed to me as chairman of the Committee on Immigration, a letter transmitting a protest from the Rumanian Government, through its chargé d'affaires, against pending immigration legislation. I will place the entire letter in the RECORD, but I will read one paragaph. After charging that the paragraphs in H. R. 6540 are discriminatory, the chargé d'affaires in a letter to the Secretary of State says:

Further, it should be considered that the adoption of the census of 1890 would not only deeply wound the pride of the Rumanian people but also strongly affect their material interest, inasmuch as Rumanian immigrants by their savings increase the amount of stable currencies available for commercial and financial purposes in Rumania. This in itself would not fail to have a detrimental effect on the chances of Rumania to speedily attain its goal, economic recuperation, an aim which can not be indifferent to any government interested in assisting the world to recover from the consequences of the World War.

Mr. Speaker, is not that an astonishing protest? Shall immigrants come here for the commercial and financial gain of Rumania or any other foreign country?

I would like to say here and now, Mr. Speaker, that these astonishing protests of other governments demanding the right that they may recuperate at the expense of the people of the United States, together with the impudent threat of alien blocs here, should result very soon in the passage of an immigration restriction bill that will really restrict. [Applause.]

The letter in full is as follows:

THE RUMANIAN LEGATION,
1607 Twenty-third Street, Washington, D. C.

The chargé d'affaires ad interim of Rumania presents his compliments to the Secretary of State and, acting under instructions from his Government, has the honor to inform him that the bill known as the Johnson bill, now pending in Congress, is viewed with much concern by the Government of Rumania. While conceding absolutely the undoubted right of the United States of America to limit or even to entirely suppress immigration, the Rumanian Government can not but be painfully surprised when it contemplates the possibility of a bill becoming law the undisguised purpose of which is not only the reduction in the total number of admissible immigrants but more particularly the practical elimination of immigration from southern and southeastern Europe, including Rumania. Under the terms of the bill now before Congress, which adopts as a basis for the quota the census of 1890, the quota of certain countries of northern and northeastern Europe would be but slightly modified, whereas the Rumanian quota would be reduced to a wholly negligible figure, probably around 10 to 15 per cent of the present one. No attempt is even made to justify the selection of the census of 1890 as a basis for the immigration quota.

The Rumanian Government feels compelled to draw the attention of the Secretary of State to the painful impression and the disappointment which would be caused in Rumania should the bill above referred to become law in its present form, the more so as the United States of America have always expressed their determined opposition and aversion to discriminatory policies.

Further, it should be considered that the adoption of the census of 1890 would not only deeply wound the pride of the Rumanian people but also strongly affect their material interests, inasmuch as Rumanian immigrants by their savings increase the amount of stable currencies available for commercial and financial purposes in Rumania. This, in turn, would not fail to have a detrimental effect on the chances of Rumania to speedily attain its goal—economic recuperation—an aim which can not be indifferent to any Government interested in assisting the world to recover from the consequences of the World War.

The Hon. CHARLES EVANS HUGHES,
Secretary of State, Washington, D. C.

February 2, 1924.

BRIDGE ACROSS THE PEEDEE RIVER, N. C.

Mr. HAMMER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2189) to authorize the building of a bridge across the Peedee River, in North Carolina, between Anson and Richmond Counties, near the town of Pee Dee.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HAMMER. Mr. Speaker, I ask to amend the Senate bill by striking out all after the enacting clause and inserting the House bill.

The SPEAKER. The Clerk will report the Senate bill as amended.

The Clerk read as follows:

A bill (S. 2189) to authorize the building of a bridge across the Peedee River, in North Carolina, between Anson and Richmond Counties, near the town of Pee Dee.

Be it enacted, etc., That the consent of Congress is hereby granted to the State Highway Department of North Carolina and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Peedee River at a point suitable to the interests of navigation, at or near the town of Pee Dee, between the counties of Anson and Richmond, in the State of North Carolina, in accordance with the provision of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended.

On motion of Mr. HAMMER, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The House bill H. R. 6717 was laid on the table.

LEAVE TO ADDRESS THE HOUSE.

Mr. ANDREW. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to address the House for five minutes. Is there objection?

Mr. GREEN of Iowa. Mr. Speaker, I am sorry, but I shall have to object. The matter that the gentleman wishes to speak about can be discussed under the five-minute rule.

Mr. ANDREW. It amounts to the same thing, does it not?

Mr. GREEN of Iowa. No; it does not, because if we allow the gentleman to address the House we will have to allow others.

THE REVENUE BILL.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GRAHAM of Illinois in the chair.

Mr. GREEN of Iowa. A parlimentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GREEN of Iowa. On yesterday evening we had read through to line 9, page 26. I am not sure that I correctly

understand the Chair's ruling. Is it in order now to offer amendments to paragraph 8 or wait until it is read through?

The CHAIRMAN. As the Chair understands it, the paragraphs in this bill are designated by letters, and in these paragraphs are subparagraphs or subsections, and unless I am otherwise directed by the committee, the Chair will ask in each case the paragraph be read before amendments are offered. As I understand, the amendments to paragraph (a) are in order.

Mr. OLDFIELD. Mr. Chairman, a parliamentary inquiry. I got unanimous consent a few days ago to offer an amendment striking out the entire section 208. That goes as far as line 21, page 27. Am I compelled to offer the amendment now, or shall I offer it to strike out section 8 down to and including 9, page 26, after it is read; then when the rest of the paragraph is read to offer an amendment to strike out the balance?

Mr. GREEN of Iowa. Under the unanimous-consent agreement the gentleman would have the right to wait until the whole section is read and then offer the amendment to strike it out.

The CHAIRMAN. The Chair was about to state that the gentleman from Arkansas will be recognized to move to strike out the entire section after it is read.

Mr. LONGWORTH. In the meantime, however, it is in order to offer amendments perfecting paragraphs as we go along.

The CHAIRMAN. Yes. Any perfecting amendments are in order as we read the respective paragraphs.

Mr. TILSON. Mr. Chairman, before leaving that point, it is now understood that the lettering shall determine the paragraphs, and the subparagraphs under the letters which are indicated by figures will not be considered as paragraphs.

The CHAIRMAN. That is the interpretation of the Chair. The Chair thinks that will be conducive to expedition in the matter and that it is a reasonable construction.

Mr. TILSON. I think, myself, that is a better way than to attempt to divide it up into the small subparagraphs, which are not complete sentences.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Committee amendment offered by Mr. GREEN of Iowa: On page 26, line 6, strike out "for profit or investment."

Mr. GREEN of Iowa. Mr. Chairman, this is a perfecting amendment. The committee has previously agreed that if any property was entitled to the benefit of the capital-gain section it would be dwelling-house property, but, under the language of the provision as it stands, if a dwelling house were sold, it would have to pay the ordinary tax, in some instances a higher rate than other property. These words, "for profit or investment," have practically no effect except that under the rulings of the department as they stand now they would exclude dwelling houses, which it was not the intention of the committee to have excluded, if the capital-gain section stood.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following committee perfecting amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. GREEN of Iowa: Page 26, line 9, after the word "property," strike out the remainder of the line and insert in lieu thereof the following: "of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale in the course of his trade or business."

Mr. GREEN of Iowa. Mr. Chairman, the object of this was to expand a little further the words "stock in trade," as they might possibly be construed to mean just the stock that the merchant or other party happened to hold in his business house at the time, the idea of the committee being that the definition of "capital assets" should exclude not only what was in the business house at the time but goods in the process of manufacture and other articles that eventually would become a part of the stock and were held for that purpose, and, therefore, would have to be included in the inventory.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. GARNER of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. GARNER of Texas: At the end of the amendment just adopted by the committee insert "or stock received as a stock dividend by the taxpayer or by the donor if the taxpayer acquired the stock by gift."

The CHAIRMAN. Without objection, paragraph (8) will be read by the Clerk with this included to show its connection.

Mr. GARNER of Texas. I am very glad to have that done.

The Clerk read as follows:

(8) The term "capital assets" means property held by the taxpayer for more than two years (whether or not connected with his trade or business), stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer and primarily for sale in the course of his trade or business, or stock received as a stock dividend by the taxpayer or by the donor if the taxpayer acquired the stock by gift.

Mr. GARNER of Texas. Mr. Chairman and gentlemen of the committee, the object of this amendment is to tax stock dividends in the hands of those who own them for a while and sell them after a few years of ownership at whatever bracket they may appear in rather than the 12½ per cent.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. BLANTON. I am in favor of the gentleman's amendment, but if he will examine it I think he will discover that where he has placed it, it excepts the property from taxation; in fact, does just the opposite of what the gentleman desires.

Mr. GARNER of Texas. Mr. Chairman, I will say to the gentleman from Texas that I have implicit confidence in the experts, and they are the ones who told me where to put this amendment. I will say to the gentleman again that if he had served on the committee as long as I have and knew the technique of this tax business he would find that the placing of a comma, a semicolon, an "or" or an "and" sometimes makes a tremendous difference, and I am perfectly willing to trust Mr. Beaman's judgment on this matter.

Mr. BLANTON. I call attention to this language:

But does not include stock in trade or—

And so forth.

Mr. GARNER of Texas. That is what we want. We do not want it to be included in the capital assets. If it is included in the capital assets, it would bear 12½ per cent. If it is not, it may go as high as 50 per cent under the rates in this bill.

Mr. RAINEY. Mr. Chairman, may I suggest to the gentleman that his amendment ought to be this:

At the end of the last committee amendment strike out the period, insert a comma, and the following words:

Mr. GARNER of Texas. Well, I think that probably would be all right. I did not undertake to arrange the punctuation. Strike out the period and put in a comma.

Now, let me see if I can get you gentlemen to understand it and say if you want to adopt it or not. The experts from the Treasury Department have done a splendid work in this particular, in trying to protect the Government in the sale of these stock dividends and other stock manipulations by stopping up all the holes they can. But in stopping up this particular hole they catch the stock dividend only when it is sold by the party having the ownership by 12½ per cent, whereas if you put this in under the definition of "capital assets" you will subject it to whatever bracket it comes in when the man has got it.

Now, the only objection made to it by the Treasury Department was that you could accomplish the same thing by the reorganization of the corporation. I do not know whether that is true or not, but I say this in spite of that, that I would rather force the corporation to reorganize than to openly give the owner of the stock dividend the 12½ per cent rate on the stock dividend. That is all you do give him.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. LONGWORTH. This applies only to stock dividends after they are sold, not when they are in the owner's hands.

Mr. GARNER of Texas. No; after they were sold or after two years' ownership.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. CHINDBLOM. The effect will be, will it not, to place stock dividends on a different basis from other capital gains?

Mr. GARNER of Texas. Yes. I want to place them on a different basis. I think they ought to be taxed originally as if money had been paid. I merely called this to the attention of the committee for the purpose of letting you pass on the

question of whether you want stock dividends placed in the class where they can bear the rate of taxation which they would bear if they had been owned by the original man in a higher bracket than 12½ per cent. Outside of that I have no interest in the matter.

Mr. MILLS. Mr. Chairman, the amendment proposed by the gentleman from Texas [Mr. GARNER] is nothing but an ineffective gesture directed against stock dividends. And let me show you why. Assuming that a corporation is capitalized at $100,000 and has a surplus of $150,000, and it desires to increase its capital stock, it has two methods of doing so open to it. The first is to issue stock dividends to the extent of $50,000, in which event the gentleman from Texas proposes to tax the owner of that stock dividend when he sells it at a profit, not at the 12½ per cent rate applicable to the case of profits derived from the sale of capital assets but at the surtax rate. The corporation, however, can with equal facility simply reorganize on the basis of $150,000, issue new stock to its stockholders, and then the stockholders, if they sell that new stock at a profit, will be taxed at the 12½ per cent rate and not at the rate suggested by the gentleman from Texas. In other words, the amendment will accomplish nothing whatsoever in the way of increasing revenue or in the way of reaching the stock dividends at which it is aimed.

Moreover, let me point out to you, gentlemen, that there is an injustice involved here. Assuming that a corporation is capitalized at $100,000, that it has a surplus of $50,000, or total assets of $150,000, and assume that all other factors—and by that I mean profits—are equal, the original stock which was issued at par would be worth $150. If the stockholder sells that original stock worth $150, which cost him $50, why under the law, even as amended by my friend from Texas, he would be taxed 12½ per cent on the $50. If, however, that corporation in its desire to increase its capitalization should issue a stock dividend based on the surplus of $50,000, then if the owner of the capital stock sells that stock for $50 he would be taxed not at the 12½ per cent but at the surtax rate. The situation is in no wise different. At all times he owned $150 worth of stock. He owned it before the declaration of a stock dividend and he owned it afterwards. If he sold his stock for $150 before the declaration of the stock dividend you tax the sale at 12½ per cent. If the stock dividend is declared and he sells the stock, you tax the profits on the sale at the surtax rate provided.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. MILLS. Yes.

Mr. JONES. If the majority who control the corporation happened to be men of small means they would not be subject to the surtax rate and it might be that they would not reorganize in order to save taxation just for one man, or a few wealthy men who might be interested in the corporation, and therefore the Garner amendment might accomplish something in that event, might it not?

Mr. MILLS. No. The Garner amendment would accomplish nothing in either event.

Mr. JONES. I am afraid I did not make myself clear. Suppose in the $100,000 corporation just mentioned a majority of those would be men to whom a 12½ stock tax would be greater than their surtax. Therefore they would not want the corporation to be reorganized. But there might be a man or two in the corporation whose surtax would be greater. Therefore they might say, "We will not reorganize. We will simply issue extra stock and let the men sell it if they want to."

Mr. MILLS. The trouble is that the gentleman thinks this whole tax applies at the time the corporation reorganizes or the stock is issued. It applies at the time the man sells his stock.

Mr. JONES. No; I think it would apply in the event of a sale.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLS. Mr. Chairman, may I have three minutes more?

The CHAIRMAN. The gentleman from New York asks unanimous consent for three minutes more. Is there objection?

There was no objection.

Mr. MILLS. There is an additional objection to this proposition. I take it that it is aimed at the holders of stock dividends which have been issued in large quantities in the course of the last three years. If you adopt the amendment suggested by the gentleman from Texas this situation arises: The owners of these stock dividends, who disposed of them prior to the passage of this act, will be taxed 12½ per cent, while the owners of the stock dividends, who dispose of them after the passage of this act, will be taxed at the higher rate. So I say the amendment is objectionable; first, because it is wholly ineffective, for by going through a process of reorganization, which is just as simple, let me say, as the issuance of a stock dividend, it can be totally avoided; in the second place it discriminates, without any logic or reason, between the owner of stock in a corporation which has a surplus and which has not declared a stock dividend and the owner of stock in a corporation which has a surplus and has declared a stock dividend; and, in the third place, it discriminates, without reason or logic, between the owners of stock dividends who dispose of their stock dividends prior to the passage of this act and those who dispose of their stock dividends after its passage.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. MILLS. Yes.

Mr. CHINDBLOM. In addition to that it discriminates between earnings obtained from capital stock and earnings obtained from other sources; I mean capital earnings obtained from other sources.

Mr. MILLS. Oh, yes; the gentleman is quite correct. The surplus of a corporation does not necessarily come from accumulated profits; a large part of it may be due to the accretion in value of capital assets and to the extent that the surplus represents the accretion in the capital value of its assets; then we discriminate against that corporation by taking away from its stockholders the benefits of the capital-assets provision of the bill.

Mr. CELLER. Will the gentleman yield?

Mr. MILLS. Yes.

Mr. CELLER. If it were constitutional to do so, would the gentleman be in favor of a tax on stock dividends?

Mr. MILLS. I do not want to go into that whole question, which is very difficult. I am one of those who agree with the majority of the Supreme Court that the issuance of a stock dividend does not in any way alter the value of the ownership which a stockholder has in the assets of a corporation.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Illinois [Mr. RAINEY] is recognized.

Mr. RAINEY. Mr. Chairman, this is an exceedingly important amendment. It will yield more revenue, if it is adopted, than the automobile taxing sections of this bill. If this amendment is adopted we can, without decreasing the revenues, strike out these automobile taxes and, perhaps, some more of the nuisance taxes in this bill.

I am one of those who agree with the gentleman from New York [Mr. MILLS], who has just taken his seat; I agree that the decision of the Supreme Court which declared these stock dividends not taxable under the income tax amendment, although it was a five to four decision, will not be reversed under the law as it stands now. I do not think a distribution of stock is a distribution of income.

The amendment submitted yesterday by my colleague [Mr. GARNER], and which was defeated yesterday before adjournment, would simply again put up to the Supreme Court of the United States the clause in the revenue laws it has declared unconstitutional, and if the Supreme Court of the United States should hold again, in the event that amendment had been incorporated in the bill, as it held in 1920, that amendment would have been absolutely unavailing, and I believe the Supreme Court would stand by that decision.

But we must reach, if we can, these stock dividends and the profits which go with them. At the present time the recipients of stock dividends can hold them for two years and then dispose of them and account not in the surtax rates but account for them at 12½ per cent in their income-tax returns as if they were making an investment.

Now, I want to call the attention of the committee to the history of stock dividends, the recent history. In the original income-tax bill we placed a clause taxing stock dividends 10 per cent; I think that was the amount, and stock dividends were taxed until March 15, 1920, when the Supreme Court by a 5 to 4 decision held that a distribution of stock was not a distribution of money at all, and therefore it did not come within the income-tax amendment to the Constitution of the United States. After that decision of the Supreme Court there commenced a series of stock distributions. From that time and until May 21, 1920, $475,000,000 worth of stock was distributed as stock dividends. After that date, in May, stock dividends stopped, and I want to tell you why they stopped. The soldiers' adjusted compensation bill in the Sixty-sixth Congress made its appearance from the committee on that date, and the original soldiers' adjusted compensation bill, as reported by the committee, contained a clause which I succeeded in getting in myself, but which I did not draw. It was drawn by the chair-

man of the committee, the gentleman from Iowa [Mr. GREEN]. It went in the bill; it taxed corporations on the privilege of making stock dividends; it required that that tax revert to the date of the decision of the Supreme Court which destroyed the tax on stock dividends, and, of course, under the decisions of the Supreme Court an income tax of this character can be made to revert, and we could make this tax revert, and we did. From that time on and until the soldiers' adjusted compensation bill of the Sixty-sixth Congress was killed in the Senate, after the presidential election of that year, there were no stock dividends. There was a majority for the party now in power of 7,000,000 in the national election of that year, and the selection of Secretary Mellon as Secretary of the Treasury, and the apparent fact that the party of Mr. Mellon was strongly intrenched in power, and perhaps, the danger that it would not always remain intrenched in power led to a resumption of stock dividends.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAINEY. I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. RAINEY. And in the year 1922 there was a perfect flood of stock dividends. The stock dividends distributed in 1922 amounted to over $2,100,000,000, and the Gulf Oil Co., which is Secretary Mellon's company, led in those stock distributions. The Gulf Oil Co. led the movement with a 200 per cent stock distribution. I am indebted to the industry of the gentleman from Wisconsin [Mr. FREAR], and the country is indebted to his industry for many things now, for the following interesting fact:

According to the gentleman from Wisconsin [Mr. FREAR], after this 200 per cent stock distribution made by Mr. Mellon's company, the stock in the Gulf Oil Co. increased in value from $400 to $800 per share. A stock distribution of 200 per cent resulted in an increased value in this case to all the stock in Mr. Mellon's Gulf Oil Co.; and it is the same oil company which is now operating in Mexican fields.

Now, if, as the gentleman from New York [Mr. MILLS] says, this amendment is a mere gesture, it can not hurt any of these corporations and none of them will be called upon to disgorge any of their illicit gains on account of these stock distributions; but if it is not, if it is more than a gesture, then it accomplishes something.

Under the law as it stands now and under this section of the bill as it has now been made by the committee amendments, you can hold stock obtained in a stock distribution for two years. If you sell it prior to the expiration of two years, you must account for your profits on that stock received as a distribution in the surtax rates.

But if you sell it after the expiration of two years, then you can regard it as an investment in your income-tax return and account for it only in the 12½ per cent rates. The object of this amendment is to take it out of the capital-assets clause, so that if it is disposed of after two years the recipient of the cash will be required to account for just as much taxes in the high surtax rates as he would now if he sells his stock within two years. The only reason that exists for these stock distributions is that the recipient can hold them under the law as it now stands for two years and then dispose of them and account for them at 12½ per cent when he makes up his tax schedule. If he sells within the two years, he must account for them in the surtax rates, and that makes it possible for these large stockholders in the great corporations of this country to escape accounting for a large share of their profits in the income-tax rates.

Why, Secretary Mellon does not pay any normal tax at all. There are six men in the United States who pay no normal tax. They are the six men whose incomes are $3,000,000 or more than that. They have invested all their earnings in corporations, so that they are not required to pay any normal income tax at all. These six men are the greatest tax dodgers the world has yet produced.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. RAINEY. May I have five minutes more, Mr. Chairman?

Mr. GREEN of Iowa. Could the gentleman get along with three minutes?

Mr. RAINEY. Yes; three minutes will be sufficient.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for three additional minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RAINEY. This amendment, as the gentleman from New York states, if it is effective, will reach those who have not yet disposed of the $2,100,000,000 worth of stock dividends they received in 1922, following the leadership of Mr. Mellon in that year. Of course, it will reach them.

That is what it is intended to do, and it will reach them if the stock is sold after the adoption of this amendment; and if they have sold that stock before this amendment is adopted, they have already accounted for it in the surtax rates, provided they sold it within two years after the distribution was made.

Mr. MILLS. Will the gentleman yield for a question?

Mr. RAINEY. Yes.

Mr. MILLS. What is to stop any man who owns one of these stock dividends, if this section is adopted in the House, from selling it to-morrow and buying it back the next day and so stepping out from under the section?

Mr. RAINEY. I do not think that can be done. I think if this amendment is adopted, from the moment it becomes the law, the recipient of a stock distribution who sells it will account in the surtax rates. It may be, as the gentleman suggests, that they could sell now before the bill becomes a law, but they could not sell now and escape anything if they received that stock dividend within the last two years. If they received it in 1922 and sold it now, the two years not having yet expired, they would account for that sale as profits in the high surtax rates. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JONES. Mr. Chairman, I ask for recognition.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. JONES. Mr. Chairman, I just want to say a word with reference to the illustration which the gentleman from New York gave about the corporation which has $100,000 of stock, in which he said that if this amendment were adopted they could reorganize if they wanted to issue a $50,000 stock dividend, and instead issue $150,000 of new stock to take the place of the old stock, and each owner would get his share and at the end of two years, if any holder sold it, he would only be taxed on the 12½ per cent basis. The vice in the gentleman's illustration is twofold. In the first place, he assumes that all corporations, some of which hold valuable franchises which could not be transferred, could reorganize, and in the second place, he assumes that all of those who own the $100,000 corporation, or a majority of them, will be subject to the surtaxes to such an extent as to make it to their interest to reorganize.

To show you a case in which the amendment would apply, let us assume that in this $100,000 corporation there are 60 men who own $1,000 worth of stock each, and one man who owns $40,000 worth of stock. The Garner amendment is adopted. Let us take each illustration—one in which the corporation does not reorganize but issues a $50,000 stock dividend, and the other one in which the corporation undertakes to reorganize and issue $90,000 to the group of men who owned $1,000 each, and issue to the other man $60,000 in lieu of the old stock held by them respectively. At the end of two years they all undertake to sell their stock. If they reorganize each one would have to pay the 12½ per cent, or in the alternative pay under the surtax provisions. The small man would probably choose the regular income rates, and the wealthy man would choose the 12½ per cent rate; whereas if they went ahead under the old plan and simply issued their stock dividends and sold them at the end of two years, the wealthy man would have to pay under the surtax rates. In other words, he would have the surtax to pay, and I say that the 60 men who control the corporation would not reorganize but would go ahead and declare their stock dividend and let the wealthy man pay under the surtax rates.

Mr. MILLS. Will the gentleman yield?

Mr. JONES. Yes; I yield.

Mr. MILLS. I think the gentleman is unaware of the fact that the capital assets provision is optional and that a taxpayer only comes under it if he elects to come under it. So that the gentleman must understand that in so far as capital assets are concerned when held by a small taxpayer, he would elect to be taxed not under that provision, but under his own rates of taxation.

Mr. JONES. Very true, but if the Garner amendment were adopted and the corporation did not reorganize, then the man who owned the $40,000 worth of stock, which he sold at the end of two years, would come under the surtax.

Mr. MILLS. Yes; the Garner amendment might have the effect of depriving the small stockholder of his option.

Mr. JONES. No; it would not deprive the small stockholder of his option, because he would not be taxed, but it would deprive the big stockholder of a means of escaping taxes. The man who had only $1,500 worth of stock and sold it at the end of two years, if he had no other income, would not be taxed at all under the Garner amendment. Also, if at the end of two years, the man who owned the $40,000 worth of stock undertook to sell it, under the Garner amendment he would be subject to the surtax, and he would not have the choice, if the corporation did not reorganize, would he?

Mr. MILLS. It deprives him of his choice, in any event.

Mr. JONES. You do not mean to say that if the Garner amendment were adopted and the corporation did not reorganize but simply went ahead and issued stock dividends, and the man worth the $40,000 worth of stock at the end of two years undertook to sell it, he would have his choice, if the Garner amendment applied?

Mr. MILLS. He would not come under the capital-assets provision.

Mr. JONES. No; but he would come under the surtax.

Mr. MILLS. He would not come under the capital-assets provision and therefore I say——

Mr. JONES. And he would have more than 12½ per cent to pay in that event.

Mr. MILLS. Therefore I say that what Mr. GARNER's amendment does is to deprive him of his option.

Mr. JONES. Yes; and any corporation that is controlled by men who would pay more under the 12½ per cent capital rate than under the surtax rate would refuse to reorganize.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MILLS. Mr. Chairman, I ask that the gentleman be given two minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MILLS. Is the gentleman from Texas under the impression that under the Garner amendment the full amount of stock dividends could be taxed?

Mr. JONES. No; only the amount of the profit. If a man had a lot of other property, the surtax might amount to more than 12½ per cent.

Mr. MILLS. The gentleman realizes that there might be no property?

Mr. JONES. Then he would not be affected in any way. In the event there was a profit under the Garner amendment, if the man had a large income, he would be taxed at the surtax rate. At the present time he could have an option of 12½ per cent or the surtax rate.

Mr. SEARS of Florida. Will the gentleman yield?

Mr. JONES. Yes.

Mr. SEARS of Florida. My colleague said, according to the statement of the gentleman from New York, they would reorganize and issue additional stock.

Mr. JONES. Yes.

Mr. SEARS of Florida. People for years have believed that they evaded the tax in that way, and now the gentleman from New York confirms what we believe.

Mr. JONES. Of course, Mr. MILLS assumes that all corporations will reorganize in order to enable some of their wealthy stockholders to dodge taxes. As a matter of fact, some of them would not and others could not afford to go to that expense, to say nothing of the danger of the loss of some of their rights in franchises or other concessions. If this amendment is a mere gesture, why is the gentleman from New York so frantic in his opposition to it?

Mr. GREEN of Iowa. Mr. Chairman, I move that all debate on this amendment and all amendments thereto be now closed. This motion not to affect the unanimous-consent agreement in reference to the amendment to be offered by the gentleman from Arkansas [Mr. OLDFIELD].

The CHAIRMAN. The question is on the motion of the gentleman from Iowa that all debate on this amendment and amendments thereto be now closed.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The Clerk will continue the reading of the bill.

The Clerk read as follows:

(b) In the case of any taxpayer (other than a corporation) who for any taxable year derives a capital net gain, there shall (at the election of the taxpayer) be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per cent of the capital net gain.

(c) In the case of any taxpayer (other than a corporation) who for any taxable year sustains a capital net loss, there shall be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount minus 12½ per cent of the capital net loss; but in no case shall the tax under this subdivision be less than the taxes imposed by sections 210 and 211 computed without regard to the provisions of this section.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GARNER].

Mr. HUDSPETH. Mr. Chairman, may we have the amendment again reported?

The Clerk again reported the amendment, as follows:

At the end of the committee amendment adopted, in line 9, page 6, strike out the period, insert a comma, and the following: "or stock received as a stock dividend by the taxpayer or by the donor or if the taxpayer acquired the stock by gift."

The CHAIRMAN. The question is on the amendment of the gentleman from Texas.

The question was taken; and the Chair being in doubt, the committee divided, and there were 132 ayes and 88 noes.

Mr. GREEN of Iowa. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. GREEN of Iowa and Mr. GARNER of Texas as tellers.

The committee again divided; and the tellers reported that there were 162 ayes and 112 noes.

So the amendment was agreed to.

The Clerk, continuing the reading of the bill, read as follows:

(d) The total tax determined under subdivison (b) or (c) shall be collected and paid in the same manner, at the same time, and subject to the same provisions of law, including penalties, as other taxes under this title.

(e) In the case of the members of a partnership, of an estate or trust, or of the beneficiary of an estate or trust, the proper part of each share of the net income which consists, respectively, of ordinary net income, capital net gain, or capital net loss, shall be determined under rules and regulations to be prescribed by the commissioner with the approval of the Secretary, and shall be separately shown in the return of the partnership or estate or trust, and shall be taxed to the member or beneficiary or to the estate or trust as provided in sections 218 and 219, but at the rates and in the manner provided in subdivision (b) or (c) of this section.

Mr. OLDFIELD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment by Mr. OLDFIELD: Page 25, line 3, strike out all of the page down to and including line 25 on page 25, all of page 26, and down to and including line 21 on page 27.

Mr. GREEN of Iowa. Would the gentleman from Arkansas be willing to agree to some time for debate on this amendment?

Mr. OLDFIELD. Yes. How much time does the gentleman from Iowa suggest?

Mr. GREEN of Iowa. Will 20 minutes be enough—10 minutes on a side?

Mr. OLDFIELD. I think 10 minutes on a side will be sufficient.

Mr. GREEN of Iowa. To accommodate another gentleman I ask unanimous consent that all debate on this amendment and all amendments thereto be closed in 30 minutes.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment and amendments thereto close in 30 minutes. Is there objection?

There was no objection.

Mr. GREEN of Iowa. I further ask that the time be equally divided between the gentleman from Arkansas and myself.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the time be divided between the gentleman from Arkansas [Mr. OLDFIELD] and himself. Is there objection?

There was no objection.

Mr. OLDFIELD. Mr. Chairman and gentlemen of the committee, I agree very thoroughly with the amendment offered by the gentleman from Texas [Mr. GARNER], just adopted. But that does not cure the evil. I am opposed to the policy of section 208, and I will tell you why in as brief a time as it is

possible for me to do so. This provision of the bill did not appear in the act of 1918. It never appeared in any law in this country until the act of 1921. Under this provision in section 208 of this bill they undertake to divide and specify and set aside different sorts of income, and make sacred a certain kind of income which I do not believe is fair to all the taxpayers of the country. Under this provision an individual can invest in land—or first, I will say, that there are three sorts of income; first, that which is the effort of labor, income that is earned.

If you earn $50,000 a year at your work, that is taxed in the surtax brackets where it belongs. There is another kind of income, and that is the income from the interest on notes or dividends on stocks or bonds. That is also taxed in the surtax brackets where the amount belongs. But in this proposition, if a man has an income on account of the enhancement in the value of the property, stocks, bonds, real estate, that is not taxed in the way that you are taxed on the money that you earn in the brackets where it should properly belong, but it is taxed at the rate of 12½ per cent flat. I think that policy is bad. I think this section ought to be stricken out because the policy is bad. Suppose a man buys a piece of real estate in the city of Washington for $100,000 and keeps it for two years and then sells it for $1,000,000. Of course that is an exaggerated case, but there are many cases similar to that, both above and below. The gain from that, after he had kept it for two years, and he has not done anything in the world except to invest $100,000 in it, is taxed at the rate of 12½ per cent, which would be 12½ per cent on $900,000. If this provision were not in the law he would be taxed $472,000, because it would fall in the surtax brackets where it properly belongs. Some gentlemen object to this because they say they would not sell. If a man will not sell for a profit of $372,000, it makes no difference to me whether he sells or not. I think they would sell if they could make a profit of $372,000 on a $100,000 investment in two years. But, at any rate, why should they not be taxed as much on the enhancement in the value of the property which they get as other people are on money they earn? The same is true with stocks. A man can buy $100,000 worth of Steel Corporation stock, keep it one year, and sell it at a profit of $100,000 and he is taxed $12,500, but if you earn $100,000 you are taxed $30,000. This is the greatest leak in this bill.

It was put in there because there were a great many people in America in 1921—I know some of them, although it would not be fair to mention the names on this floor, and it is a matter that we thrashed out in the Ways and Means Committee—there were some who had timberlands and coal lands and other lands which they had owned for some years, and they did not want to sell them at the inflated prices which we had in 1920 and in 1921 and pay the high surtax rate. Therefore they had this provision placed in the law, and it is wrong. It ought not to be in the law. Why not tax them just as you tax everyone else? Of course, as the gentleman from New York [Mr. MILLS] said a moment ago, this 12½ per cent or surtax is optional. Up to $30,000 of income a man may just as well pay the normal and the surtax, because they do not amount to any more than the 12½ per cent, but when you make more than $30,000, then you receive a benefit. In other words, this benefits the man who made more than $30,000, and it does not benefit the man who makes less than $30,000. Is there a man on either side of this House who down in his heart feels that the man who makes $30,000 on a transaction like this, or over, should get the best of it as between that man and some man who makes less than $30,000? It is so simple, to my mind it is so clear, that this is bad policy that I think there ought not to be any question about it. What I am saying to you now can not be disputed. It will not be disputed by Mr. MILLS or Mr. GREEN or anyone else, but here is the argument that they will make: They will say that under this provision we will get more revenue, but I do not believe that statement, and I know that they do not know that the statement is true. Why do I say that? Because the Treasury Department has never submitted any figures which would show that we would get more revenue under this provision than if it were not in the law.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. OLDFIELD. Mr. Chairman, I shall be compelled to use a little more time.

Mr. DENISON. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. DENISON. How does the gentleman feel about losses of that kind?

Mr. OLDFIELD. I think that losses ought to be deducted.

Mr. DENISON. All losses?

Mr. OLDFIELD. Yes; all the gains should be taxed and all of the losses should be deducted. I have not a doubt in the world that a great deal more money is made by speculating in stocks and bonds and real estate than is lost. I say tax all the gains and deduct all the losses. That is fair to everyone.

Mr. DENISON. The gentleman does not think there are more gains than losses in the purchase of stock?

Mr. OLDFIELD. I do with the kind of people who hold them for two years. They are conservative. They have money; they are able to hold them for two years, and they are able to hold their bonds for two years. They are able to hold them until the cycle of business changes. The experts tell us that there is a cycle in business. Their gains are taxed at 12½ per cent while everybody who earns money is taxed in the surtax bracket, where they belong. Mr. MILLS will tell you that under this provision of this bill you will get no money.

Mr. McCoy said that the other day also, but he did not offer a scintilla of proof, and right here let me say that we have been unable to get information out of the Treasury Department. I say that the minority of the Ways and Means Committee, regardless of the party in power, ought to have at least two or three experts connected with it. Let us have them when you are in power and let you have them when we are in power. Those men should be able to go to the Treasury Department and check up the figures and bring the facts to this House. I think everyone ought to have the facts before him. To show you how much Mr. McCoy knows about the proposition, he said the other day that in the 1918 act capital gains were not taxed at all. That is not true, and everyone connected with the Treasury Department knows that that is not true. Up until 1921 they were taxed like everything else was taxed, and then some gentleman before the committee said they picked out 15 or 20 of the big fellows and found out that they had deducted $11,000,000 in losses and reported $1,000,000 in gain. You can pick out these things in the Treasury Department and prove your case, but we ought not to be in the business of picking them out and leaving all of the others. They can get the information. Mr. McCoy said that they could. All they have to do is to go to the records and find out. Every man who returns an income-tax return returns his loss and his gain under this provision of the law—capital gains. You can go through the records there and get the proof, and Mr. McCoy told me they could. I asked him if he would get the information, and he said he would, but he has not gotten it. He has not furnished it to this House. It is not fair to the House, therefore, to say that we will get more money if we do not repeal this provision of the law. But if you do, you will put everybody, every kind of an income, on the same basis. Why do you want to tax a man who makes money out of holding stock for two years at a less rate than we are taxed and every other income-tax payer in the country is taxed? Why tax the man who makes a good deal of money on bonds, after holding them for two years, less than you tax the man who earns $25,000 or $50,000 a year? Let us take a piece of land on the water front down here. Suppose the Government has spent millions of dollars in improving the channel of the river and makes the property on the river front worth ten times or a hundred times more than was paid for it. Why tax that increment, that enhancement in value, to which the owner has not added one penny, for less than you tax every citizen in the country who earns his money?

I say, gentlemen, it is bad policy and it ought not to be kept in this law. It is an outrage. It is a vicious proposition. It is one of the deliberate leaks of this bill. It was put in there for the purpose of permitting these fellows to sell their property and make a lot of money and pay only 12½ per cent instead of 50 per cent. They say they found $11,000,000 in loss and $1,000,000 in gains. They evidently did not take into consideration Senator COUZENS's taxes. That matter was bandied around here in letters passing between Secretary Mellon and Senator COUZENS, and Senator COUZENS has no objection to my mentioning it on the floor. He paid the high surtax. He paid nearly $8,000,000 in taxes, gentlemen, whereas if he had waited a year or two he would have had to pay only $2,000,000. He told me the other day that many men had done the same thing.

Why did not the Treasury Department find those cases? When the Treasury Department goes and picks out cases, why do not they pick out cases that weigh against their argument, just as they pick them out in favor of their argument?

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. GREEN of Iowa. The gentleman surely does not mean to say that these cases were picked out. They were the 50 largest taxpayers.

Mr. OLDFIELD. Why did they not include the COUZENS case? It is only a short time ago. It was in 1921. This is 1924.

Mr. GREEN of Iowa. They have not named anybody.

Mr. OLDFIELD. Secretary Mellon named Senator COUZENS in the newspaper correspondence, did he not?

Mr. GREEN of Iowa. This is not the way to deal with this matter.

Mr. OLDFIELD. The correspondence shows that he paid $8,000,000 in taxes, whereas under this bill he would pay only $2,000,000. We want to give the facts.

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has two minutes.

Mr. GREEN of Iowa. Mr. Chairman, I hope I may have the attention of the House because I am satisfied that I can explain this matter, and gentlemen on either side will want this information. I think I can show beyond all controversy that the adoption of this amendment would cause a loss to the Treasury of the United States of from $25,000,000 to $50,000,000. I do not mean by that to cast any reflections upon my friend from Arkansas [Mr. OLDFIELD] who is honest and diligent and a hard worker. He thinks he has found a place where some parties who ought to pay high taxes are getting away from them, but he is mistaken.

Now, the fact of the matter is that this capital-gain provision, as the gentleman from Arkansas correctly stated, does not apply to those who have incomes below $30,000. It applies only to those in the high brackets—that is all—those who would pay high rates. And for that reason the proposition of the gentleman from Arkansas looks plausible, because we cut down the taxes they would otherwise pay if they made these sales. Why was this provision originally adopted? It was not adopted on the recommendation of Republican Secretaries of the Treasury alone; it was adopted also because we were informed by a previous Democratic Secretary that the provision taxing capital gain by the surtax rates was a failure. Why? Because people did not have to sell to be taxed at those high figures, but they always took their losses and got full credit for them. Democratic Secretaries of the Treasury as well as Republican Secretaries were unanimous on that point.

Now, we found in 1920, before this capital-gain section was enacted, that the 50 largest taxpayers were taking their losses but realized no capital gains, and they took the 50 largest as the extreme cases, the men who paid the most, as the fairest. They did not pick out one here and there, and I have no doubt Senator COUZENS was included if he sold his property in 1920—the 50 largest taxpayers showed $10,000,000 of losses and only $1,000,000 of capital gain, because they did not have to take their gains.

The gentleman from Arkansas said a man will sell when he makes a big profit. Well, if property is worth $100,000 to the buyer, it is worth just about the same to the seller. Why should anyone sell and pay these high surtaxes when he can keep the property and make practically as much out of it as the man who proposes to buy it? He will not do it. He will not be foolish enough to do it. He will say, "This property is worth just about as much to me as to the other man, and therefore I will not sell and will not pay 50 per cent on my gain; because if I did, it would wipe out all the profit I could get and put me in a worse position than if I kept the property."

If you pass the bill you will wipe out that $25,000,000 that we expect to get on both sides by putting in a similar provision as to capital losses, namely, that capital losses should be allowed in the way of deductions at the rate of 12½ per cent, the same as capital gains, which is a part of the section which the amendment seeks to strike out. But, of course, if the amendment of the gentleman from Arkansas prevails, that is the end of it. He would not want the losses to be treated differently. We will lose that $25,000,000, and then we will lose a number of millions in addition, because it will simply stop these sales and we will get no revenue out of the provisions in the amendment. They will proceed just as they have done before, and, as the Secretary has said, the Treasury will get "whipsawed." They will all take their gains and none of their losses.

Mr. Chairman, I sincerely hope this amendment will be voted down. I have examined into this subject very carefully. This is not a partisan matter. It is something that has been recommended and called to our attention by previous Democratic Secretaries in the same way—that under this system the Treasury was bound to lose.

Now, there is another reason why we ought not to tax these capital gains at the full rates, and that is that these capital gains are realized, as a rule, over a number of years. A man must hold the property at least two years in order to come under the benefits of this provision. He may have held the property since 1913 and the gains have gone along gradually from year to year; but if the amendment of the gentleman from Arkansas prevails, he will have to pay in one year on all the gains that should be distributed over a number of years. That is not fair. It is not fair to the farmer or to anybody who sells real property to have the gain assessed in one year that has accumulated over a number of years taxed at the same rate as other gains are taxed. There can not be any question about that. If this provision is enforced in that kind of a way it will result in the taxpayer paying more tax than in all fairness he ought to pay.

We put this at 12½ per cent. Of course, 12½ per cent is an arbitrary figure, but it is about as near as we could come to what we thought would be a rate under which more money would be realized to the Treasury, and the Treasury has been realizing under this provision a great deal more money, as all the experts of the Treasury have testified, than was realized when the law stood as the gentleman from Arkansas now desires to have it stand.

Mr. THATCHER. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. THATCHER. As I understand, these provisions apply to the larger gains, gains over $30,000.

Mr. GREEN of Iowa. About that.

Mr. THATCHER. And that these provisions do not apply to the smaller gains?

Mr. GREEN of Iowa. It does not make any difference to the smaller men. They have their option to pay the ordinary rate which they would pay.

Mr. THATCHER. Then it is no discrimination against the smaller men?

Mr. GREEN of Iowa. No. We expressly fixed it so that the man who had to pay only 5 per cent on the other gains would have to pay only 5 per cent on this, for example.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. SANDERS of Indiana. Just what amount did the gentleman say would be lost to the Treasury?

Mr. GREEN of Iowa. Somewhere between $25,000,000 and $50,000,000. I should estimate it roughly at $35,000,000, if this amendment is adopted.

Mr. SANDERS of Indiana. I will ask the gentleman whether the great danger in dealing with a revenue bill is not that as paragraph after paragraph is reached and amendments are offered in order to give apparent benefit we are apt to keep losing money for the Treasury, until finally it is not a revenue bill at all?

Mr. GREEN of Iowa. That is correct, and I agree with the gentleman.

Mr. HUDSPETH. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. HUDSPETH. If a man purchased a piece of land in 1913, sells it now and makes a profit of $200,000, under which provision would he have to pay the greatest tax—under the provision as written in the bill or under the amendment, if it is adopted, offered by the gentleman from Arkansas?

Mr. GREEN of Iowa. Under the amendment offered by the gentleman from Arkansas.

Mr. HUDSPETH. Would it not stop all sales and be a great incentive not to sell land?

Mr. GREEN of Iowa. Why, certainly.

Mr. HUDSPETH. And men would not sell?

Mr. GREEN of Iowa. That is what I have been contending. The tax on it would be so heavy that a man would say, "I can not afford to sell."

Mr. HUDSPETH. It would have a tendency to stop all transfers?

Mr. GREEN of Iowa. Yes.

Mr. HUDSPETH. Because it would result in giving all the profits to the Government?

Mr. GREEN of Iowa. Yes.

Mr. HUDSPETH. That is what happened under the excess-profits tax, and that was the reason for repealing it?

Mr. GREEN of Iowa. Yes; one of the reasons.

Mr. TILSON. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. TILSON. Was not that the reason the limit was fixed at 12½ per cent, so as not to entirely impede all sorts of transactions?

Mr. GREEN of Iowa. Yes; as the law originally stood it practically stopped buying and selling in large transactions where there was a large gain.

Mr. MILLS. Mr. Chairman, I apologize to the gentlemen of the House for speaking so frequently on this measure, but it comes entirely from my interest in seeing that a proper bill is finally passed. There are two features in any tax bill. One is the question of rates and the other is the question of administration. You gentlemen have voted into this bill the rates which you desire. It might be good politics for us to hold our hands off and let any amendments go in which would wreck this bill, but I for one will say it is certainly not my purpose to do so, and in so far as I have any information I want to put it at the disposal of this House.

Now, I recognize the sincerity of my friend from Arkansas, but he is dealing with one of the most difficult questions in the whole field of income taxation as to what constitutes income. In Great Britain the gain from the sale of capital assets is not treated as income and, therefore, they disregard the gain or loss from the sale of capital assets entirely. In this country, in our first two income tax laws, we proceeded to treat the gain from capital assets as income and we therefore found ourselves in a position where we had to permit the deduction of capital losses. Now, after the experience of some years with that particular provision the administrators, the gentlemen who are called upon to administer this law, came to Congress and said, "Gentlemen, we are losing far more than we are gaining under this provision, for the reason that men may refrain from taking capital gains, but they can always take capital losses, and not only do they always take real losses, but they take fictitious losses." It was perfectly possible, under the law as it existed prior to 1921, for a man to sell stocks or bonds, take a loss and buy back those very same bonds 30 days later. He would not have made a real loss but he would have made a loss for income-tax purposes. He might not even do that. He might, for instance, let us say, sell Southern Pacific Railroad stock one day and make a loss on it, and that very same day buy Santa Fe Railroad stock. The character of his investment would not in any way have altered but he would have made a paper loss for the purpose of income-tax returns. The Government soon discovered that. It discovered in 1920, as the gentleman from Iowa [Mr. GREEN] has told you, that the 50 largest taxpayers in this country made $11,000,000 worth of losses and only $1,000,000 worth of gains. So those men, probably, through that provision saved in taxes between $5,000,000 and $6,000,000 because of losses which in a good many cases, I can assure you, were not real losses.

The House in 1921 acted on the advice of the Treasury. When the bill went to the Senate we provided that capital gains should be taxed at 12½ per cent and that capital losses should be limited to 12½ per cent. The Senate eliminated the provision with reference to losses, so that the present situation is absolutely indefensible. A man is only taxed 12½ per cent on his capital gains, but he is allowed to deduct 100 per cent of losses. The Ways and Means Committee is trying to cure that evil. We limit taxable losses to 12½ per cent, and by so doing it is estimated we will pick up another $25,000,000 in revenue under the provisions of the bill as reported by the committee.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. MILLS. I do not want to yield just now. It seems to me we would be making a great mistake to return to the system which prevailed prior to 1921. I want to say to the House that, not only based on the advice of the best experts but based on my own personal knowledge of what goes on, outside of tax-exempt securities, there is no easier means of avoiding the income tax than taking losses, principally paper losses. The proper course for us to pursue with reference to this provision and many others is to maintain the ground that we have gained, and, in my judgment, appoint a committee, probably of both Houses, to study the administration of income tax laws not only in this country but in other countries, so that many of these questions which are now doubtful may be determined in accordance with the light not only of our own experience but the experience of others. In the meanwhile, not only with reference to this section but sections to come, may I plead with the House to back up the mature opinion of the committee that studied them with care, and to back up the labor of tax experts who have labored for five or six months in order to make this bill, if possible, tax-evasion proof?

Mr. STEPHENS. Will the gentleman yield? Will you please explain in detail what method is used in reference to these capital losses?

Mr. MILLS. To effect a capital loss?

Mr. STEPHENS. Yes.

Mr. MILLS. Why, it is very simple. I gave an example last year when a bill referring to capital losses was before the House. Assume that in 1917 X bought 5,000 shares at par for $500,000, X being a man with an income of $250,000——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. TILSON. Mr. Chairman, I ask unanimous consent that the gentleman from New York have two minutes additional.

Mr. STEPHENS. I ask unanimous consent that the gentleman be allowed five minutes additional.

Mr. OLDFIELD. Mr. Chairman, the time has been fixed by the committee. Of course, the committee can fix further time if it desires.

Mr. GREEN of Iowa. I think we have had sufficient time.

The CHAIRMAN. Does the gentleman from Arkansas want to use the balance of his time?

Mr. OLDFIELD. I want to use the balance of my time.

The CHAIRMAN. The gentleman is recognized for two and a half minutes.

Mr. OLDFIELD. Mr. Chairman, I appreciate what the gentleman says about the situation.

Mr. STEPHENS rose.

The CHAIRMAN. For what purpose does the gentleman from Ohio rise?

Mr. STEPHENS. I rise for information. Was unanimous consent to Mr. MILLS proceeding objected to?

Mr. GREEN of Iowa. The time has already been fixed in the committee.

Mr. STEPHENS. And we can not extend it by unanimous consent?

Mr. GREEN of Iowa. No.

Mr. STEPHENS. If it can not be extended, all right. If it can, we ask unanimous consent for this purpose, and would like to have our request considered if it is in order.

The CHAIRMAN. Will the gentleman from Ohio prefer his unanimous-consent request?

Mr. STEPHENS. My unanimous-consent request was that the time of the gentleman from New York [Mr. MILLS] be extended five minutes. The gentleman was giving us very valuable information.

Mr. SANDERS of Indiana. I respectfully submit, Mr. Chairman, that request for unanimous consent is not in order. The only request that is in order is that the gentleman may have time not to be taken out of this time because the time is controlled by the committee.

Mr. STEPHENS. I ask unanimous consent that the gentleman have five minutes' time, not to be taken out of the time that has been designated.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from New York have five minutes, the same not to be counted against the time already allotted by the committee. Is there objection?

Mr. GREEN of Iowa. Mr. Chairman, reserving the right to object, is there any more time going to be asked beyond that? We can not spend all day on this one item.

Mr. STEPHENS. Mr. Chairman, we are here for information.

The CHAIRMAN. Is there objection?

Mr. STENGLE. I object, Mr. Chairman.

Mr. OLDFIELD. Mr. Chairman, Mr. MILLS spoke about the law in Great Britain. I do not know what the law is in Great Britain, and neither does Mr. MILLS know what their law is on this question. The Treasury Department has not been able to tell us. They do have certain land taxes, landlord taxes, and various other taxes over there that we do not know anything about.

Gentlemen, there is another question involved in this matter. I think this provision of the law has done more to increase rents in this country than any other one provision in it, and I will tell you why. They sold properties, apartment houses and land, in this town and in New York and everywhere else at immensely inflated prices because they could sell those properties and pay only 12½ per cent. It would have been better for the people of America if they had kept those properties, as Mr. GREEN predicts they would have kept them. It would have been better if they had kept those properties, because then the rents of this country would not have been so high, because these immense profits, these stilted profits, have been capitalized, and the people of America, in every city of this country, are paying rent on that high capitalization due to inflation and due to this provision in this law. That is the situation, and you ought to vote this out, and I believe that you will vote it out. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas.

The question was taken; and on a division (demanded by Mr. OLDFIELD) there were—ayes 56, noes 120.

Mr. OLDFIELD. Tellers, Mr. Chairman.

Tellers were ordered, and the Chair appointed Mr. GREEN of Iowa and Mr. OLDFIELD as tellers.

The committee again divided; and the tellers reported that there were 58 ayes and 137 noes.

So the amendment was rejected.

The CHAIRMAN. On page 5, when paragraph (c) was being read a motion was made to strike out paragraph (c), which was to be considered with this section.

Mr. OLDFIELD. Mr. Chairman, the gentleman from Iowa and myself have agreed on an amendment to be offered to paragraph (c), on page 5.

Mr. GREEN of Iowa. Mr. Chairman, I ask that this be passed, because I have not the amendment at hand.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that paragraph (c), page 5 of the bill, be passed for the present. Is there objection?

There was no objection.

The Clerk read as follows:

EARNED INCOME.

SEC. 209. (a) For the purposes of this section—

(1) The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

(2) The term "earned income deductions" means such deductions as are allowed by section 214 for the purpose of computing net income, and are properly allocable to or chargeable against income.

(3) The term "earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than $5,000, his entire net income shall be considered to be earned net income, and if his net income is more than $5,000, his earned net income shall not be considered to be less than $5,000. In no case shall the earned net income be considered to be more than $20,000.

Mr. GARNER of Texas. Mr. Chairman, I offer the following amendment, to go in at the end of line 6, page 28.

The Clerk read as follows:

Amendment offered by Mr. GARNER of Texas: Page 28, at the end of line 6, insert "earned income also means reasonable compensation or allowance for personal services where income is derived from combined personal services and capital in the production by unincorporated persons of agricultural or other business.

Mr. GARNER of Texas. Mr. Chairman and gentlemen of the committee, I hope you will not think I am offering amendments for any purpose except what I believe will improve the bill. I want to say to my Republican friends, as I said to the Committee on Ways and Means this morning when we were discussing a certain amendment—I said to the Democrats on the committee, "Gentlemen, I hope you will be careful in offering amendments to this bill because we do not want to put the bill in such a condition that when it goes to the Executive he will have any reason to veto it." And I hope the gentlemen will understand when I offer an amendment that I am doing so in the belief that I am improving the bill and in no way impairing its efficiency or to give the Executive any reason for vetoing it.

Now, you know what this amendment is. You are now considering what is known as the earned-income definition. I wish I had this printed, but if you will turn to page 27 of the bill you will find in subdivision 1, "the term 'earned income' means wages, salaries, professional fees, and other amounts received as compensation for services actually rendered." That was all that was in the original bill. If you get the original Mellon bill you will find that is all that was in that bill as far as the subject of earned income is concerned. But the Ways and Means Committee put in this additional language, "and other amounts received as compensation for personal services actually rendered." That was an amendment by the Ways and Means Committee itself.

I did not object to that amendment, although I do not see any great necessity for it, because the only persons that would be benefited would be some receivership or activities of that nature, which did not concern me in getting a 25 per cent reduction.

But I am concerned about the merchant and the farmer, because I believe he earns his income just as much as the wage earner or the professional man or the salaried man. For instance, do you not believe that the merchant doing business in a store on the corner of a street in your town working 10 or 12 hours a day making $10,000 a year is earning his income just as much as the man who sits upstairs in an office over him and earns $10,000 a year as a doctor or a lawyer? This amendment I propose will take care of that situation. The reason they advance for not adopting this amendment—and it is a pretty good reason, I can not make light of it because it will be a difficult problem for the Treasury Department, but I believe the department can solve it—they say it will be difficult to administer, and that is the only reason they give. I will ask the gentleman from New York, who opposed the amendment and defeated it—and there was not a chance to defeat it except by giving all men having an income of $5,000 and less credit for earned income. The gentleman offered that amendment. Now, this amendment does not apply to any income except between $5,000 and $20,000.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. GARNER of Texas. I shall have to ask for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MOORE of Virginia. Will not the gentleman explain his amendment?

Mr. GARNER of Texas. Let me read the amendment.

Earned income also means reasonable compensation or allowance for personal services where income is derived from combined personal services and capital in the production by unincorporated persons of agriculture or other business.

In other words, it applies to incomes from mercantile business and the farming business where the income is not over $10,000 a year. The Treasury Department says it is difficult to administer the law, and I expect it will be. And the principal reason is the difficulty of ascertaining the capital investment.

I admit that difficulty, but that is a small difficulty with small people having incomes between $5,000 and $10,000 and is not as effective as it would be with corporations incorporated for millions or hundreds of millions of dollars. I yield to the gentleman from North Dakota.

Mr. BURTNESS. The gentleman has already answered the question, and that is whether or not the gentleman would eliminate the earned-income feature of $5,000.

Mr. GARNER of Texas. No; I would not. If you put this language in the bill, you do not need that. Mr. Rockefeller, under the $5,000 provision, will get 25 per cent reduction up to $5,000.

Mr. BURTNESS. Might I suggest that if you eliminated that language the persons in the Treasury Department who would determine what a farmer earns would probably claim that the earned income amounts to $1,000 or $2,000?

Mr. GARNER of Texas. That is a matter of administration. I do not know what my side of the House will say to me when I make the suggestion, because I have not consulted the Ways and Means Committee, but I do hope that in the course of the discussion and consideration of this bill, before we finally send it to the Senate, we can get a record vote on this proposition. I think it is most indefensible to say that a lawyer, a doctor, a bank cashier can have a reduction of 25 per cent and that you can not give the same reduction to a farmer or a small merchant. I have fought for it in the committee, and I am going to do my best here, and some time later on perhaps an opportunity will be afforded for everyone to vote upon it. I am not telling any secret when I say that if the gentleman from New York [Mr. MILLS] had not gotten in his amendment exempting everybody up to $5,000, undoubtedly the committee would have adopted this amendment.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. CHINDBLOM. Assuming the Treasury Department had gotten beyond the very difficult question of determining the amount of investment, then how would you fix the rate of income in that investment?

Mr. GARNER of Texas. I would leave it just as the language is here, "reasonable compensation." You can not write a law and you have never written a revenue law where you did not give the Treasury Department some discretion in ascertaining the facts.

Mr. CHINDBLOM. I do not think there is another provision in this bill where the Treasury Department would have discre-

tion to determine how much profit or earnings a man should make.

Mr. GARNER of Texas. The gentleman may be right about that; but this applies to a very small class of people, and they are just as deserving as the bank cashier. Here is a bank cashier who gets $10,000 a year, and here is a merchant working twice the number of hours that the cashier does, who has a store across the street and who deposits the money in the bank where the cashier is. One gets 25 per cent reduction and the other is given no reduction.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. MOORE of Virginia. I think the gentleman is right in criticizing this classification, which puts in one group of people and leaves out another group. Personally I very much doubt whether a court would uphold any such classfication. It is an arbitrary classification that is not warranted by any fact.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. GARNER of Texas. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BLACK of Texas. Mr. Chairman, will the gentleman yield?

Mr. GARNER of Texas. Yes.

Mr. BLACK of Texas. Is it not the opinion of the gentleman that this whole section would introduce a new complication into our income-tax laws and ought not the whole thing to go out?

Mr. GARNER of Texas. There is a good deal of argument back of what the gentleman says.

Mr. BLACK of Texas. I just wanted to give notice that I am going to offer an amendment to strike it all out.

Mr. GARNER of Texas. How can you say, and how can anyone say, that I should have or Mr. MILLS should have or Mr. Mellon should have, or anyone else with large incomes should have a deduction of 25 per cent for earned income up to $5,000? That was a foolish thing to do—to give a man with a million dollar income a reduction of 25 per cent on earned income up to $5,000. It was done only for the purpose of defeating this particular amendment and this particular amendment was defeated only because it is difficult of administration, and I believe Mr. MILLS is very conscientious and perfectly frank about it.

Mr. MILLS. Mr. Chairman, the gentleman from Texas [Mr. GARNER] is quite right in saying that there is no question of principle involved here. This is a straight question of administration. When the committee of experts were engaged in drafting the provisions of this bill they sought to do the very thing which Mr. GARNER wants to do, and that is to define "earned income" in a comprehensive way. Earned income, of course, is very easy to define when a man's total income comes as a result of his own personal efforts, but if part of his income is derived from personal efforts and part from capital then there is presented a very difficult problem from an administrative standpoint, as all can readily see. There are two methods of procedure for segregating these two different kinds of income. You can either determine the amount of capital invested in the business and then allow a reasonable return on that capital—two very difficult questions—and then say that all of the rest of the income is derived from personal effort, or you can approach it from the other angle and attempt to determine what the man's own personal services are worth and ascribe the balance of the income to capital. The department found that in dealing with the question of invested capital in the case of a few hundred thousand corporations it was absolutely impossible as a practical matter to determine what invested capital was, and it became apparent, therefore, that in the case of 3,500,000 taxpayers, if the department had to examine each separate return and determine in every case the amount of capital invested why administration would inevitably break down.

Mr. BEGG. Mr. Chairman, will the gentleman yield?

Mr. MILLS. I have only a very few minutes. When the department, after trying many drafts to accomplish what the gentleman from Texas [Mr. GARNER] seeks to accomplish to-day, finally determined that it could not draft a satisfactory definition they examined the returns.

They examined the returns, and if you will turn to the returns for 1921 you will find that out of a total of about $18,000,000,000 reported under the personal-service item no less than $14,000,000,000 came from salaries, wages, commissions, and bonus. The bill as originally reported then took that definition, which covered 85 per cent of the earned income, recognizing very frankly that an injustice was being done to 15 or 20 per cent of earned income in other cases. When we got into committee—and I am telling you the story just as it occurred—I met one day Doctor Adams, who is not only one of the best theoretical experts but one of the most practical administrators of the income tax laws, and Doctor Adams said to me, "MILLS, the only thing for you to do in the case of this earned-income proposition is to adopt an arbitrary limitation." He said, "If you take $5,000 as an arbitrary limitation, I think you will cover over 90 per cent of the earned incomes in this country to-day, and you will do substantial justice without ruining the administration of the law."

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MILLS. Mr. Chairman, may I have three minutes more?

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for three minutes more. Is there objection?

There was no objection.

Mr. MILLS. I examined the figures, and I found, as I have already told you, that under the bill as originally reported we did injustice to perhaps 20 per cent of the earned incomes. But if in addition to the definition in the original bill we give an exemption of $5,000, I believe we could take care of 90 per cent of that 20 per cent, and if there is any injustice done, why, of course, it is done only above the lower brackets.

What is the use in coming here and talking about discriminations against the farmer? How many farmers are earning a net income of $5,000 a year? If they are earning $5,000 a year, they get the full benefit of this earned-income provision. What is the use of talking about the small storekeeper if he is earning $5,000 a year? He gets the full benefit. It is only when you get into the upper brackets that there is any possible injustice, and then I make the flat assertion that the gentleman's criticism applies only to a very small fraction of earned income. On the other hand, I submit that every administrator I have consulted has reached the same conclusion, that it is literally impossible to segregate income from property and income from personal service in the hundreds of thousands of individual cases which would be covered by the amendment of the gentleman from Texas.

Mr. BURTNESS. Mr. Chairman, will the gentleman yield?

Mr. MILLS. Yes.

Mr. BURTNESS. Can the exemption—for instance, the family exemption—be taken away from the earned income?

Mr. MILLS. Oh, no. We give a 25 per cent reduction of the tax on the first $5,000 of net income.

Mr. BURTNESS. I did not get the gentleman's argument when he suggested $7,500.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. BEGG. Mr. Chairman, I ask that the gentleman's time be extended two minutes. I want to ask the gentleman a question on his statement.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the gentleman from New York may have two minutes more. Is there objection?

There was no objection.

Mr. BEGG. If the Garner amendment were adopted, would not that multiply by an untold factor the opportunities for dispute between the Government and the taxpayer in ascertaining capital investment?

Mr. MILLS. The gentleman must recognize that in every one of these thousands of cases there would be a dispute between the taxpayer and the Government as to what his personal services were worth and what his return on his capital should be worth; and in the case of the small storekeeper or the farmer who does not keep books the administrative difficulties would be literally insuperable.

Mr. BEGG. And the added fact that it is more difficult to ascertain the capital invested on a farm if the man has had it 15 or 20 years than it is on any kind of corporation, is it not?

Mr. MILLS. I should say so, but I am not a farmer.

Mr. BEGG. It seems to me it would be wholly unworkable, and the small man who would have that dispute could not afford to hire an expert attorney to come down and plead his cause.

Mr. MILLS. I understand one thing that these farm organizations have been trying to do is to get the farmer to keep books so that he will know what he is getting on his capital but that to date they have been unsuccessful.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. MILLS. Yes.

Mr. NEWTON of Minnesota. Have not the English had trouble in this matter because they did not have provisions of this character?

Mr. MILLS. Yes. I have studied the English law, and never in my life have I found anything so difficult as to understand those provisions.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. TILSON. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Connecticut offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. TILSON to the amendment offered by Mr. GARNER: After the Garner amendment, strike out the period, insert a colon, and add the following: "*Provided*, That the total allowance for earned income in addition to the $5,000 herein provided for shall not in any case exceed 20 per cent per annum of the net income from such business, as reported by the taxpayer for the tax year, and shall not in the aggregate exceed $20,000."

Mr. TILSON. Mr. Chairman, the gentleman from New York [Mr. MILLS] has made it so plain that it seems to me there ought to be no misunderstanding of this provision. He has shown that it is physically impossible for the Treasury to carry out the purposes sought to be effected by the amendment of the gentleman from Texas [Mr. GARNER], and that if that amendment is adopted, it will do more than anything else could do to break down the administration of this part of the income tax law.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield right there?

Mr. TILSON. I do.

Mr. GREEN of Iowa. I have been particularly enthusiastic about this provision, but if I wanted to beat it and fix it so that it would not be operative I would ask that the amendment of the gentleman from Texas be put in there.

Mr. TILSON. It should not be put there. But if the amendment of the gentleman from Texas is put in, there should be a limitation put to it.

One who, because he has an investment which will yield well up toward $20,000 and gives only a bit of his time to it, should not be permitted to take advantage of this reduction in his tax to the full amount of his income from his investment.

Mr. GARNER of Texas. Will the gentleman yield?

Mr. TILSON. Yes.

Mr. GARNER of Texas. If the gentleman's amendment should be accepted, would the gentleman and his associates agree to support my amendment?

Mr. TILSON. I told the gentleman frankly that I would not, because I think that it would break down in its administration, in fact, that it can not be administered, but if the amendment must go in I think this limitation should be put in, so that a man who gets most of his income from an investment should not be able to take advantage of it all as earned income.

Mr. GREENWOOD. Is there any scientific reason for fixing it at 20 per cent? Has the gentleman studied the question and determined why it should be 20 per cent?

Mr. TILSON. It is arbitrary, of course; but I think it is fair, if a man, for instance, has an income of $50,000 from his business to provide that he shall not be entitled to a preferential rate as earned income on more than $10,000 of it over and above the $5,000 already allowed him.

Mr. GARNER of Texas. The gentleman should not use the amount of $50,000 but should use the limit of $20,000.

Mr. TILSON. I mean where his income from services and capital is $50,000 and is not limited in any way.

Mr. GARNER of Texas. Yes; it is limited to the activities of men in business and is limited to $20,000.

Mr. TILSON. Yes; but 20 per cent of $50,000 is only $10,000, and I am talking about an income within the limitation.

Mr. GREENWOOD. His business would have to yield $100,000, as I understand the gentleman's amendment, before he would get an income of $20,000?

Mr. TILSON. It would; yes.

Mr. McSWAIN. In view of the fact that the gentleman's amendment would not be subject to amendment, would he not agree to accept a suggestion to offer an amendment making it 50 per cent and for this reason: Has not my friend seen a merchant who was earning, by giving 12 or 15 hours a day to his business, $10,000 or $15,000 a year, and then when he dies, the personality being gone from the place, the whole thing, lock, stock, and barrel, fixtures, and all, would not bring $15,000?

Mr. TILSON. Well, that man, under my amendment, if his income was $50,000——

Mr. McSWAIN. I said $15,000.

Mr. TILSON. Then he would get 20 per cent of that, which would be $3,000, in addition to the $5,000. So he would get credit on $8,000 as earned income. It seems to me that would be fair and that there ought to be some limitation if this amendment is to go through.

Mr. GREEN of Iowa. Mr. Chairman, I move that all debate on this amendment close in 10 minutes.

The motion was agreed to.

Mr. CHINDBLOM. Mr. Chairman, in the remarks which I made on Monday last upon the entire bill I inserted, at page 2674 of the CONGRESSIONAL RECORD, figures which I had obtained from the legislative reference service in the Library of Congress with reference to the income of various classes of our population. In the industrial groups, based upon income-tax returns for 1921, sole proprietors of businesses earned the following average incomes: Agriculture and related industries, $1,758; mining and quarrying, $2,885; manufacturing, $3,332; construction, $3,330; and transportation and other public utilities, $2,141 per annum—all per annum.

In the various trades sole proprietors, according to the income-tax returns of 1921, had the following incomes per annum: Public service, professional, amusements, hotels, and so forth, $2,964; finance, banking, insurance, and so forth, $3,619; special cases, businesses not sufficiently defined to be classed in any other division, $2,811.

I think these classes include practically all the people who might be reached by the amendment proposed by the gentleman from Texas [Mr. GARNER]. A deduction of $5,000 for earned income will certainly reach practically every farmer and practically every small storekeeper in the land. I think we have a right to legislate in the light of conditions which exist and in the light of facts which are known. We never could pass any revenue law if we were to base it merely upon theory, speculation, or deduction. Revenue laws are always more or less inaccurate and always more or less unjust, so that our purpose must be and should be to make them as nearly fair and as nearly equitable as may be possible. This deduction of the tax on $5,000 will certainly, within the knowledge and personal experience of every man in this House, cover every man now involved, every small storekeeper, and every farmer, referring now to the particular classes that have been mentioned.

Mr. McKEOWN. Will the gentleman yield?

Mr. CHINDBLOM. I have very little time.

Mr. McKEOWN. I just wanted to know whether there would be any objection to increasing it to $7,500?

Mr. CHINDBLOM. Well, I will say this: I would not care particularly whether you raised it to $7,500, if the Treasury can stand the drain.

Now, there has been some rather jocular reference to this deduction of $5,000, as if it did not meet any real conditions. I want to name a class of persons who can not be reached in any other way than by a provision of this sort. I refer to the beneficiaries of trusts—children, for instance, who are under guardianship, incompetent persons under conservatorship, and other people who are receiving incomes from trust estates. They do not and can not earn their incomes, but they are benefited by this provision for a deduction of $5,000. This amount of their income will be considered as earned income in their behalf.

With reference to the other classes, they are amply able to take care of themselves. The total allowable deduction is $20,000, although, as everybody knows, there was no limitation in the Treasury draft which was sent to the committee. The committee considered this proposition, gentlemen, for a very long time, and in the light of every conceivable circumstance and of all the information that could be obtained. Then, also, consider the difficulties which are going to arise when the Treasury Department begins to try to determine what is the invested capital of a farmer with 80 or 160 acres of land and how much of a percentage he should be allowed as earnings upon his investment. A man of small means will have no opportunity to come to Washington and make his protest or his complaint, because his interest is not sufficiently large.

We have provided a deduction of $5,000, and I think it is equitable; I think it reaches not only 99 per cent, but I will say 999 out of every 1,000 of these taxpayers.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GREEN of Iowa. Mr. Chairman, in view of the demand for additional time, I ask unanimous consent that the time for debate upon this amendment be extended 10 minutes further.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the time be extended 10 minutes, making 15 minutes altogether. Is there objection?

There was no objection.

Mr. BEGG. Mr. Chairman and gentlemen of the committee, it would seem to me that if this amendment were adopted the cost of administering the same and the dissatisfaction over its adoption would be many times greater than the benefit received by the people supposed to be covered. I believe that it is a safe statement to make that three-fourths of the criticism of the income tax to-day is because of the dissatisfaction with the settlements made on the value of the investment rather than the amount to be paid by the taxpayer, and I can conceive of absolute conditions where nobody could make a just settlement. I can take $10,000 to-day and go into any State in the Union and buy more land for $10,000 than three years ago I could have purchased for $25,000. If I buy my farm to-day, and you bought yours three years ago, and they are side by side and both alike in productiveness, and in every respect produce the same, would there be any equity in this particular amendment if applied to both of us?

It would be absolutely impossible to found your taxes on satisfaction of the amount levied if you left it to a man in a department down here who probably never saw a farm to determine the capital asset. It seems to me that is a great weakness. It is even more difficult on the farm than it would be in a little store, yet in a little store the same kind of a difficulty might arise.

I believe another safe statement to make is that 50 per cent of the value of the capital invested in the little stores is in good will. You can invest $25,000 in a little store, and if you have somebody at the head of your management who is not adaptable to that particular line of business the production on your capital asset would not produce an earning on one-fifth the amount invested, whereas you may take one-fifth of the amount invested and because of the good will that goes by the name of John Smith or John Jones the production may show an earning on an investment several times as great.

Therefore it would seem to me that if you want to do something in this bill that will magnify the dissatisfaction in this country over taxes, and particularly income taxes, the best way I know to do it would be to put a provision in here leaving it to the arbitrary decision of any man or any set of men in Washington to say what is the capital investment in Ohio either in a farm or in a small business.

If the $5,000 offset as earning is not high enough, do what my friend the gentleman from Illinois [Mr. CHINDBLOM] suggested that he would not oppose, raise it to $7,500 or $6,000 or any other figure.

Mr. CHINDBLOM. I said depending upon the conditions in the trade.

Mr. BEGG. I meant to quote the gentleman accurately; but by all means do not adopt an amendment that is going to multiply the difficulties of administration by nobody knows how much.

Then another feature is that 90 per cent of the people who have come to me as their Representative to arrange some kind of hearing for them in the Internal Reveune Bureau have been in dispute on the amount of capital invested and what should be allowed as capital investment.

Let us take the little man again. Let us say that in 1918, when farm prices were at the peak, he bought a farm for $250 an acre, and some man, after this law is in effect, in basing his figures on the average price of land over a period of five years should find that the average price of land in that community over that period of five years was $125 an acre, just one-half the actual investment, could you imagine the state of mind of that farmer when he goes back home and gets a letter saying that his capital investment claim of $250 an acre has been disallowed? I know cases, and could give the names and the places, where an arbitrary decision was made in the Internal Revenue Bureau that the value of a farm lying near a community should be taken back to 1913, at $85 an acre, when it sold on the market two years later than that for more than $500 an acre, and sold during the period of high prices for between $900 and $1,000 an acre. This was an arbitrary decision, and when it was carried to the board of appeals they said, "Support your decision and your claim by affidavits," and the Government sent men out to secure affidavits, and they secured affidavits from men who were engaged in a rival business, motivated by revenge as much as anything else, who swore that the land in 1913 was only worth $85 an acre, multiplying, as I said, the dissatisfaction to the taxpaying public.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BURTNESS. Mr. Chairman, as I looked at the definition of earned income, as this bill first came from the Treasury to the Ways and Means Committee, I felt that the definition and its application in practice would have been positively ridiculous and unfair to a very large percentage of the taxpayers of this country. I personally went before the Ways and Means Committee and opposed that definition and suggested some change be made which would include the very men whom the gentleman from Texas has in mind in proposing his amendment here this afternoon. But I am entirely well satisfied with the practical proposition which has been adopted by the Committee on Ways and Means and which is found in this bill. I think everyone will concede that it is a much more practical and a fairer proposition than if you imposed no limits whatsoever, no minimum limits and no maximum limits, and then accepted the amendment proposed by the gentleman from Texas, for then the situation, of course, would be that some man here in the Treasury Department would determine how much of a storekeeper's income or how much of a farmer's income is the result of his work and how much of it the result of the capital invested. Very few of such representatives of the Government would have granted $5,000 as actually earned income; hence the decision of the committee arbitrarily regarding $5,000 as earned income serves the purpose very much better. But so much for that. I want, however, to make this prediction to-day. Although I am ready to vote for this provision with reference to earned income deductions, and regard it correct on principle, I am inclined to think that two or four or six years hence you will find there has been so much difficulty in administering this provision that there will be a great deal of sentiment in favor of wiping out any provision whatsoever for earned income deductions.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. BURTNESS. I have not the time. I have just a few minutes and there are several things I want to discuss.

We had some experience with this sort of a provision in our own State and we wiped it out at the last session of the legislature. But I want to remind you that the $5,000 is not the maximum which a farmer or storekeeper can earn and still have the benefit of this reduction on all of his tax. As a matter of fact, the $5,000 is earned net income, and the total earned income for him may be $6,000 or $7,000. If no more than $5,000 remains after the deduction set out in section 204, he gets the benefit of the reduction on $5,000, even though his gross income may be $7,000 or $8,000.

At the proper time I shall offer an amendment, and I want to explain it now, and that is, to change the word "net" in line 13 to "taxable." If the gentleman from New York [Mr. MILLS] is correct as to the intent of this section, that it means that a person is to have the benefit of the reduction on the first $5,000 in taxable income—that is, his income after family exemptions have been deducted—then this amendment is absolutely necessary, because as the bill now stands it can only be allowed upon what is defined to be "earned net income," and you will find the definition of that in the section now under consideration.

If my amendment carries, it will give a person who has a total net income of $7,000, with a family exemption of $2,000, thereby leaving $5,000 in taxable income—the enactment of my amendment will give him the right to treat all of such $5,000 as earned income. Otherwise the situation of such farmer or merchant will be that the $7,000 is the total net income, and $5,000 is net earned income, and they would have to figure up the proportion of the total earned income and the total net income. In other words, he would only get the earned reduction on 50/70 of the $5,000. What I want is to give him the privilege of regarding everything up to that figure as earned income, and to do that my amendment must be adopted; otherwise a person with only or a little more than $5,000 actual taxable income will not receive the benefit of a reduction on $5,000 in many cases. In fact, his reduction might in effect really be on only $3,000 or $3,500; that is, the relationship of the arbitrary earned net income to his total net income might be in such percentage in the case of total incomes of six or seven or eight thousand as to treat but a percentage of the $5,000 as entitled to the credit of an earned deduction. The deduction does not under the present wording of the bill apply to the first $5,000 of taxable income, but to the first $5,000 of net earned income. I only desire to make the bill do what the gentleman from New York [Mr. MILLS] a few minutes ago stated that it would do when he said that $7,500 might be the income of a taxpayer, and if he had exemptions amounting to $2,500, the deduction could apply to all of the amount remaining—

that is, upon $5,000—even though the $7,500 was the result of a combination of personal work and invested capital.

Mr. GARNER of Texas. Mr. Chairman, I will ask for only two minutes, as I have agreed to let the gentleman from Massachusetts have three minutes of my time. I will occupy it by calling attention to the fact that every gentleman who has spoken on the subject admits that the definition ought to go in the bill if it was not for the $5,000 exemption. Every gentleman says that if it is possible to do so, the merchant and the farmer ought to be in the same condition as the lawyer and the doctor. They give as a reason for it, as the gentleman who has preceded me has just said, that they will have certain exemptions, that the lawyer will have certain exemptions, and the doctor will have certain exemptions, and the bank cashier will have a certain exemption; and I am unwilling to discriminate against the farmer and the merchant who earns his income as much as the banker or the lawyer and the doctor. It is a matter of principle that is involved here, whether you are going to favor the doctor and the lawyer and the bank cashier with a 25 per cent reduction and not give the exemption to the farmer and the merchant. I will agree with the gentleman from Illinois that this was all considered for three or four days in committee. It was not adopted because the gentleman from New York did not want us to adopt the amendment and the only way he could prevent it was to make the income up to $5,000 earned income. If it had not been for that this would have been in your bill now. I think that the amendment ought to be adopted so that you will not discriminate against the merchant or the farmer.

Mr. ANDREW. Mr. Chairman, I appreciate very much the courtesy of the gentleman from Texas in giving me three minutes. With the progress that is being made in the consideration of the bill, the time is rapidly approaching when Congress will have to deal with adjusted compensation. It is a matter of concern to a vast majority of the Members of the House; and when we have finished this bill there should be a bill reported out dealing with the question of adjusted compensation, which can be at once given attention on the floor of the House.

Conditions have changed in certain respects with the passage of the years. More than 300,000 of the soldiers and sailors who served their country in the war and who would have been entitled to the benefits of this measure have passed beyond the range of earthly reward. Their heirs should now be included among the beneficiaries of this bill.

The long delay in the adoption of the measure has made some of the benefits provided in the bill, such as vocational training, of doubtful value.

The reduction in taxes, the ultimate form of which is not yet predictable, creates a situation in which the remaining revenues of the Treasury can not now be foreseen, and makes it at least doubtful what balance will be left.

On all of these accounts it has seemed appropriate to reconsider some of the provisions in the adjusted compensation bill while safeguarding our obligations to the veterans. I have therefore introduced an alternative to the adjusted compensation bill before us for the last two years, and this alternative bill I should like to bring to the attention of the Members of the House. It attempts to meet the changed conditions and at the same time give the veterans that which is their manifest due.

This bill provides benefits not merely for the veterans who have survived until this long-delayed measure has become a law, but it extends these same benefits to the heirs of those who died during the war or in the years that have elapsed since the war ended. Certainly neither logic nor justice would warrant discriminating between the heirs of those veterans who die after the law goes into effect and the heirs of those who have died before. If we are to provide adjusted compensation for the former, we are equally bound to provide it for the latter, whose losses are the more severe and whose situation is the more appealing and deserving.

The bill eliminates all benefits to officers and confines the advantage of its privileges to enlisted men. The argument for adjusted compensation has always been based upon the enlisted men's pay of $1 or $1.25 per day. This argument and the schedules based thereon are not equally applicable to officers and their pay, and the line of demarcation between captains and higher officers has always seemed arbitrary. I have heard of many captains and lieutenants who protested that adjusted compensation was not due them, but seldom an enlisted man.

It has been claimed that the bill which has been before Congress is unduly complicated and contains provisions the execution of which would involve an unnecessary amount of bookkeeping and a very extensive bureau for its administration. Take, for instance, the Government loan features. If a veteran wanted to borrow, he would have to fill out at the post office an application for the loan and hand in with it his own promissory note and his service certificate, and these three documents would then have to be forwarded to the Secretary of the Treasury, who in turn would have to pass upon the application and, if he approved, issue an acknowledgment, in triplicate, before the loan to the veteran could be made. All these transactions would have to be duly recorded on the books of the Treasury and of the post office, and the same procedure would have to be repeated as often as the veteran made any payment either for interest or principal on his note. Such a complicated process in making and repaying loans, it must be admitted, would involve unconscionable paper work, delays, and possibilities of errors, which would be as unsatisfactory to the veteran as it would be expensive to the Government. This whole complicated system of recording and repaying loans through the post office and the Government Treasury has been eliminated in the present measure, and a method has been substituted by which a veteran can obtain a loan, when necessary, from any incorporated bank.

We have heard it said that because of the difficulty of forecasting the probable choice among alternative options in the original bill it is impossible to foretell exactly the expense that will be involved during successive years. The measure which I have presented eliminates these unpredictable factors and makes it possible to calculate the definite cost for each year by simply applying actuarial tables to the easily accessible records in the War and Navy Departments.

The fear has been expressed that the adjusted compensation bill before Congress involves so large an expenditure of money in the next few years as to interfere, if adopted, with any immediate and substantial reduction in taxes. I believe that these fears are unjustified, and have heretofore presented to Congress the reasons for my belief; but the modified adjusted compensation bill now presented involves so little expense during any of the next 25 years as to eliminate any possible ground for apprehension about our current program of tax reduction. Congress can not only reduce taxes for the future to the full extent recommended by the Secretary of the Treasury, but can also make that reduction retroactive to an almost like amount as has been proposed by the Committee on Ways and Means. The adjusted compensation bill herewith presented would not cost more than $100,000,000 in any of the first four years and would not cost on the average more than $35,000,000 annually for the 20 years succeeding.

The bill which I have introduced contains the following modifications of the original bill:

(1) It adjusts the compensation of the heirs of veterans who have died on the same basis as the compensation of veterans who still live.

(2) It limits adjusted compensation to enlisted men.

(3) It eliminates the option of vocational training, which now that six years have elapsed since the war ended would have substantial value for few veterans.

(4) It substitutes for the former farm and home aid and Government loans the privilege of loans from incorporated banks and trust companies.

(5) It calls the adjusted service certificates provided in the original bill by a name which clearly shows what they really are—fully paid insurance policies.

(6) It extends these policies from 20 to 25 years.

(7) It makes the one essential feature of adjusted compensation a fully paid insurance policy based in amount upon the length of the veteran's service in the war, payable to the veteran at the end of 25 years if he lives or to his beneficiaries and heirs in case of his death in the intervening time, and it makes this policy available as collateral for bank loans.

Mr. TILSON. Mr. Chairman, I ask unanimous consent to modify the amendment that I introduced. After consultation with Mr. Beaman, I want to put it in a little different form, leaving it the same in substance, so that it will limit the personal services over and above $5,000 to 20 per cent of the profits from the business.

Mr. GARNER of Texas. Mr. Chairman, I have no objection to the gentleman's offering that amendment, but I hope that in offering the amendment it is not the purpose to destroy the amendment which he says he will not vote for.

Mr. TILSON. It does not; but it makes it much better, I think.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent to modify his amendment. The Clerk will report the modified amendment.

The Clerk read as follows:

Amendment offered by Mr. TILSON: After the Garner amendment, strike out the period and insert a comma and the following: "but not exceeding 20 per cent of the net profits of the taxpayer from the business in connection with which his personal services are rendered."

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Connecticut to the amendment of the gentleman from Texas.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. GARNER of Texas. Mr. Chairman, I do not believe I shall call for a division. I do not like to see this discrimination. I shall accept the gentleman's amendment and hope that some gentleman on his side will see the necessity of putting them all on a parity.

Mr. YOUNG. Mr. Chairman, I call for a division.

The committee divided; and there were—ayes 69, noes, 40.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Texas [Mr. GARNER], as amended.

The question was taken; and on a division (demanded by Mr. GARNER) there were—ayes 116, noes 117.

Mr. GARNER of Texas. Mr. Chairman, in view of the closeness of the vote, I demand tellers.

Tellers were ordered, and Mr. GREEN of Iowa and Mr. GARNER of Texas were appointed to act as tellers.

The committee again divided; and the tellers reported—ayes 141, noes 134.

So the amendment was agreed to.

Mr. BURTNESS. Mr. Chairman, I have an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. BURTNESS: Page 28, line 13, after the word "taxpayer's" strike out the word "net" and after the word "income" insert "subject to tax"; and in line 15 omit the second word "net" and after the second word "income" insert "subject to tax."

Mr. GREEN of Iowa. Mr. Chairman, I am sure the amendment of the gentleman does not accomplish what he wants to accomplish. If he desires, I shall ask unanimous consent to pass this over temporarily, with permission to return to it, so that he may consult the experts and get the kind of amendment he desires.

Mr. BURTNESS. Mr. Chairman, I feel certain that the amendment accomplishes what the gentleman from New York [Mr. MILLS] said the bill does, namely, provide for tax of that portion of the income which is taxable, and certainly the language of the bill now does not do what the gentleman from New York said it did in his argument.

Mr. GREEN of Iowa. I did not hear the gentleman from New York make his statement, so I do not know what he said, but if I am correctly informed as to what he said, I think he said something that he did not intend at all.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Dakota.

The amendment was rejected.

The Clerk read as follows:

(d) In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary, and shall be separately shown in the return of the partnership, and shall be taxed to the member as provided in section 218.

Mr. BLACK of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 27, line 22, strike out lines 22, 23, 24, and 25, and on page 28 strike out all of the language on page 28, and on page 29 strike out all of the language down to and including line 17, the language stricken out being all of section 209.

Mr. GREEN of Iowa. Mr. Chairman, I make the point of order that the amendment comes too late. We are reading by paragraphs, and part of the motion is to strike out the first paragraph.

The CHAIRMAN. Does the gentleman from Texas desire to be heard?

Mr. BLACK of Texas. Mr. Chairman, I do not know just what the ruling of the Chair in a case like this would be, but I followed the precedent of the gentleman from Arkansas [Mr. OLDFIELD], who waited until the previous paragraphs relating to capital gain and loss were finished by perfecting amendments. He then moved to strike out the whole section. I thought that was the logical thing to do. I realize that we consider these revenue bills by paragraphs, but inasmuch as we were dealing with the whole section, as I understood it, I thought the logical thing to do would be to wait until the section was perfected and then move to strike out the whole section. That is the only reason I did not attempt to offer my motion before that.

Mr. LONGWORTH. Mr. Chairman, in the case of the gentleman from Arkansas, the only reason why he was permitted to make such a motion was that he had been granted the right to do so by unanimous consent. The gentleman from Texas plainly violates the rules.

Mr. BLACK of Texas. Mr. Chairman, in view of the circumstances, I ask unanimous consent that my amendment be now considered.

The CHAIRMAN. The gentleman from Texas asks unanimous consent for the present consideration of his amendment. Is there objection?

Mr. GREEN of Iowa. Mr. Chairman, I am compelled to object.

The CHAIRMAN. Does the gentleman from Texas insist upon a ruling from the Chair?

Mr. BLACK of Texas. Mr. Chairman, I insist upon the amendment. It is up to the Chair to make the ruling.

The CHAIRMAN. The Chair is constrained to rule that under the practice as the Chair understands it, where a bill is being read by paragraphs and it is desired to strike out the section, the proper thing to do is to move to strike out the section in the first place or to wait until the first paragraph is read and then move to strike it out, with notice that a similar motion will be made to each succeeding paragraph as it is reached. In view of the matter, in which I am confirmed by consultation with the parliamentarian, the Chair is constrained to sustain the point of order.

Mr. CONNALLY of Texas rose.

The CHAIRMAN. For what purpose does the gentleman from Texas rise?

Mr. CONNALLY of Texas. To make a suggestion on the point of order.

The CHAIRMAN. The Chair has ruled upon it.

Mr. CONNALLY of Texas. I beg the Chair's pardon. I understood he stated he would consult the parliamentary clerk.

The CHAIRMAN. No; I have consulted him.

Mr. CONNALLY of Texas. If all the amendments had been offered at the same time, the perfecting amendments would have been voted on first, and the gentleman from Texas could not offer his amendment to strike out until all the other amendments were disposed of.

The CHAIRMAN. Under the parliamentary situation the Chair thinks the point of order should be sustained.

Mr. GREEN of Iowa. Mr. Chairman, the next section to be read is 212.

The CHAIRMAN. The gentleman is right. The Clerk will read.

The Clerk read as follows:

(a) The term "gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, the compensation received as such), of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under subdivision (b) of section 212, any such amounts are to be properly accounted for as of a different period. Items of gross income shall be considered to be received in the taxable year in which they are unqualifiedly made subject to the demands of the taxpayer.

Mr. BLACK of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BLACK of Texas: Page 24, line 24, after the word "whatever" strike out the period and add the following

language: "Including interest received upon the obligations of States, Territories, political subdivisions thereof, or the District of Columbia: *Provided*, That there shall be excluded from the gross income in the case of any person owning obligations of States, Territories, political subdivisions thereof, or the District of Columbia, the interest of which is included in the gross income, the interest on the amount of such obligations, the principal of which does not in the aggregate exceed $5,000."

Mr. GREEN of Iowa. Mr. Chairman, this proposition has already been considered and voted down in a little different form. We debated it for a long time, and therefore I ask unanimous consent that all debate on this amendment close in five minutes, all the time being allowed to the mover of the motion.

Mr. FREAR. I shall object. Here is a matter involving $2,000,000 of securities, and you propose to stop it in five minutes.

Mr. GREEN of Iowa. How long do you want to argue it?

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment close in five minutes, all the time to be allotted to the mover of the motion. Is there objection?

Mr. LAGUARDIA. I object.

The CHAIRMAN. The gentleman from Texas [Mr. BLACK] is recognized.

Mr. BLACK of Texas. Mr. Chairman and gentlemen, it is true that the proposition which is contained in my amendment has been argued heretofore, but it is a very important one, and it ought to receive the earnest consideration of the House.

Now, if my amendment should be adopted there would be added to the gross income of a taxpayer all interest received upon the obligations of States, Territories, political subdivisions thereof, or the District of Columbia, except an exemption is granted to the interest upon an amount of such obligations the principal of which does not exceed in the aggregate $5,000. The reason why I have written that exception into the amendment is that I follow exactly the exemption now allowed to interest on $5,000 of bonds of the Government of the United States, and it is in the same language as the provisions of the revenue act of 1918 as it passed the House of Representatives. The Senate did not pass the provision, but nevertheless the House clearly expressed its will upon the subject. In that bill we undertook to tax the income from these securities, and it was supported by the present majority leader, Hon. NICHOLAS LONGWORTH, of Ohio, and it was supported by our honored colleague on the Committee on Ways and Means, Hon. HENRY T. RAINEY, of Illinois. The bill was in the charge of that gallant and able Democrat, Hon. Claude Kitchin, of North Carolina, and I have copied the proviso to my amendment exactly from the provision of the bill of 1918.

The only difference in the whole amendment is—I want to be frank, and will be frank, of course—the only difference is that the bill of 1918 did not seek to tax the interest on these securities which had been issued prior to the enactment of the bill. The tax levied would have applied only to securities issued after passage of the act.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. No. I regret I have only five minutes, and the gentleman from Iowa has been very technical this afternoon in regard to time.

Mr. GREEN of Iowa. Oh, no.

The CHAIRMAN. The gentleman from Texas declines to yield.

Mr. BLACK of Texas. The proposition that I make is this: The House, having voted by a majority vote in favor of taxing income from these securities in 1918, ought now to adopt my amendment and put the precise question up to the Supreme Court of the United States for a final decision.

There is no man in this House who has a more profound respect for the Supreme Court than I, and if that great court had ever passed upon this precise point and had ruled that Congress was without the power to levy this tax, then I would not again submit it to the House. I would recognize, of course, that the only way to cure the situation was by a constitutional amendment. But there is not a Member of this House who can fairly and justly argue that the precise question has ever been decided by the Supreme Court.

Now, in the debate in 1918, the gentleman from Illinois [Mr. RAINEY] had this to say, found on page 10374 of the CONGRESSIONAL RECORD:

Mr. Chairman, I have no hesitancy in submitting this question to the Supreme Court of the United States.

And then the gentleman from Ohio [Mr. LONGWORTH], who is now the majority leader of the House, made a speech opposing the amendment offered by the gentleman from Virginia, Governor MONTAGUE, who sought to strike out the provision from the bill. The present majority leader made a vigorous speech against the adoption of the amendment, in which he said:

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia [Mr. MONTAGUE].

It seems to me that there is quite a distinct difference, a very sharp difference, between our right to tax the income of municipal bonds already outstanding and our right to tax those which shall be issued in the future. I myself have very little doubt that we have the power to put a tax on the income of bonds hereafter to be issued.

Thus spoke Mr. LONGWORTH on September 16, 1918. I do not agree with him that there is any distinction whatever in the power of Congress to tax the income from these bonds issued after the passage of the act over those issued before the passage of the act. The power of Congress in each case would be just the same. I do agree with him, however, that we do have the power to tax such income, and therefore I urge the adoption of my amendment.

The CHAIRMAN (Mr. SANDERS of Indiana). The time of the gentleman from Texas has expired.

Mr. GREEN of Iowa. Mr. Chairman, I move that all debate on this amendment close in 10 minutes.

The CHAIRMAN. The gentleman from Iowa moves that all debate on this amendment close in 10 minutes.

Mr. FREAR rose.

The CHAIRMAN. The Chair recognizes the chairman of the committee to make the motion.

Mr. FREAR. Will the Chair recognize me?

The CHAIRMAN. The gentleman from Iowa moves that all debate on this amendment close in 10 minutes.

Mr. GREEN of Iowa. Yes; in 10 minutes. It has been discussed over and over again.

Mr. FREAR. Mr. Chairman, I move an amendment—that it be made 20 minutes.

The CHAIRMAN. The gentleman from Wisconsin moves to amend the motion of the gentleman from Iowa and make it 20 minutes. The question is on agreeing to the amendment offered by the gentleman from Wisconsin.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. FREAR. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 90, noes 69.

So the amendment was agreed to.

The CHAIRMAN. The question recurs on the motion of the gentleman from Iowa as amended.

The motion of Mr. GREEN of Iowa as amended was agreed to.

Mr. FREAR. Mr. Chairman——

The CHAIRMAN. The gentleman from Wisconsin is recognized for five minutes.

Mr. FREAR. Mr. Chairman, I wish to assure the House that I do not care to delay its proceedings, but on a matter of this importance it is folly to cut off discussion in 5 minutes or 10 minutes, and that is the reason why I insisted upon the extension of the time for discussion. It is like the right of petition, and we insist upon it.

I do not intend to discuss what we have talked over from my viewpoint, because I think the House understands quite clearly that practically all of the argument made on either side thus far for the cutting down of the surtax on these very enormous incomes is based on the ground that if we do not do this the incomes will be placed in tax-free securities as one of the methods of tax escape. That is a good argument, and it is, to an extent, followed by the statement which I have inserted in the RECORD of the man who tried the only case that is claimed to be decisive but which was only obiter dicta, the case of Evans against Gore. He says this question of tax-free securities, as we all know, was never tried and never determined by the court. That case related solely to judges' salaries. In addition to that there is the brief of Judge Corwin, which is a remarkable brief and covers all the cases affecting the question of taxable securities. If, with all of these facts before us, we can not say to the Supreme Court, "Decide the question fairly," then I say frankly we are begging the question. If these incomes are being placed in tax-free securities—and we know they are—let us have the court decide the question and decide it squarely.

The gentleman from Texas [Mr. MANSFIELD] said to me yesterday, "When we sold our bonds in Texas we put that condition in them, and they knew they were to pay taxes." That being so, people understand generally that the sixteenth amendment to the Constitution meant what it said; that it gave power to tax incomes from whatever source derived. If

that was so, then they at that moment taxed all the incomes under laws enacted by Congress, and that being true, no one can complain to-day when buying any kind of a security, whether it be a sewerage security, a highway security, or whatever it may be. They can not complain, because they bought with full knowledge under the law.

We say, of course, we are not going to tax securities; we can not touch them, and we do not want to; we want to tax the income of the people who to-day are able to evade their just taxes, and those most violent in attacking these tax evaders are now helping them to escape.

My good friend from Texas [Mr. BLACK] has put into this bill a better proposition than I had, for he exempts from taxation $5,000 to every holder. It is right he should do that. I do not believe the Supreme Court will turn down this proposition when once fairly presented, but let us give the court a chance, especially, as I said the other day, when it involves $20,000,000,000 in securities which affords an avenue of escape from payment of taxes through tax-free securities.

Mr. OLIVER of New York rose.

The CHAIRMAN. For what purpose does the gentleman from New York rise? Is the gentleman in favor of the amendment or opposed to it?

Mr. OLIVER of New York. I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York is recognized in opposition to the amendment.

Mr. OLIVER of New York. Mr. Chairman, I am against this amendment on the same principle that I was against the constitutional amendment recently defeated in the House. I have introduced a proposed constitutional amendment giving the Federal Government the power to lay and collect taxes on income derived from all Government securities. My amendment reads as follows:

SECTION. 1. Congress shall have power to lay and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

SEC. 2. Congress shall provide that moneys collected under said power from the income derived from securities issued by any State or subdivision thereof shall be returned to the State or subdivision which issued the securities and that all moneys collected from the income derived from securities issued by the Government of the United States shall be paid into the Treasury thereof.

Section 2 of the bill provides that the Federal Government shall give back to the States, cities, towns, and villages every dollar's worth of tax collected from the income of any State, city, town, or village bond, on the theory that by that method we would put every income, from every source whatever, under a Federal income tax law, but give back to the States, cities, towns, and counties, which must raise their interest rate because of a taxation policy, every single dollar the Federal Government collects.

The vice of the bill proposed by the committee, on which we voted some time ago, was that it proposed, by a process of retaliation, to bring about justice between the States and the Federal Government. But retaliation never brought justice and can never bring anything but strife. The committee bill read as follows:

SECTION 1. The United States shall have power to lay and collect taxes on income derived from securities issued after the ratification of this article by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of the United States or any other State.

SEC. 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued after the ratification of this article by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article by or under the authority of such State.

The fallacy of that plan is that in endeavoring to put all citizens on an equality before the income tax laws it created the greater evil of putting State and local government at the mercy of the Federal Government. The power given to the State governments to retaliate on the Federal Government would never be used in time of war, and I do not think, since but a few States have income tax laws, that it is a power equal to that conferred on the Federal Government. Now, the proposition is contained in the amendment offered by the gentleman from Texas [Mr. BLACK] to permit the Federal Government to keep all the tax it collects, even though local government is made more expensive by the power to tax. He proposes to tax the income from all State and city bonds and give the whole thing to the Federal Government. I do not see why States, cities, and towns should pay a subsidy to the Federal Government. The report of the Committee on Ways and Means advocating their constitutional amendment said that they proposed to tax State and city bonds because the States, cities, towns, and counties are living on a subsidy from the Federal Government due to tax exemption of their securities, and they proposed to make the States pay a subsidy to the Federal Government for all time in order to cure that evil. I am against that, and I am going to offer this proposal at the proper time to the platform committee of the Democratic Party as the only fair method of solving the tax-exempt income evil; in other words, I do not believe there is any other method except by making the Federal Government a collection agency for the States.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. OLIVER of New York. Yes.

Mr. LAGUARDIA. Would not the gentleman's amendment destroy the marketability of municipal bonds and also increase the rate of interest?

Mr. OLIVER of New York. No; but I perfectly agree with the gentleman that there is going to be some evil in it, but not as much as he suggests, but whatever evil there is will be corrected in the greatest degree by returning to the States, cities, and towns every dollar of tax collected. The Federal Government would not be collecting all the taxes and spending them for Federal purposes when the people of the States and cities are themselves financing their investments at a higher rate because of the Federal tax. I voted against the committee bill largely for the reason that the committee bill did a gross injustice to local government.

Mr. LAGUARDIA. Does not the gentleman believe that with the development of public utilities by municipalities which must take place in the next 10 or 15 years to destroy these exploiting public-service corporations, it would be better to leave it as it is?

Mr. OLIVER of New York. It might be, but I suggest this amendment because of the great vote, almost a two-thirds vote for the committee bill in the House recently. If they are going to carry through a tax-exempt amendment—and all indications show that some day they will succeed—we have got to carry through a sensible one that does the minimum of harm to the State and city governments.

The object to be obtained is to bring the income of every citizen under one uniform tax law, the Federal income tax law. There is no need to change the relation between State and Federal Government in order to accomplish this simple object. The object can be secured as I have suggested. The evil it will do to State and local government is very small. Whatever tax is collected they will receive as compensation for the rise in interest rate on their bonds. No system is perfect. No system is without evil, but the plan I have suggested can be adopted with little or no financial loss to any government and with no gain to either State or Federal Government at the expense of each other. State sovereignty will be preserved under my plan and the Federal Government will receive the revenue collected from a tax on the securities which the Federal Government issues. Thus, no citizen escapes the payment of his tax, no State or local government is made subject to the Federal Government. My plan gives the Federal Government the power to tax without the power to destroy.

Mr. LITTLE. Mr. Chairman, I move to strike out the last word. [Applause.]

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. LITTLE. Mr. Chairman and gentlemen, I do not know of any more desperate situation in this country than the ability of men of great fortunes to escape paying taxes. I am sorry to hear the distinguished Chairman object to further consideration of the question. I do not know of anything we have in our minds that more needs discussion. Every subject that has been before us this week has been discussed over and over many times. I hope you will keep on discussing this until somebody evolves a method of meeting it, and that it will not be stopped by any point of order. I heard somebody remark a moment ago that the discussions did not bring anything new. I ran across some facts—and I think a few facts will not hurt this discussion, either—about the English method of collecting taxes. I find that the Guinness brewery in 1921 made $76,000,000 in profits. The Government collected $60,000,000 and more of excise and license duties and $7,000,000 of income and excess profits taxes, a total tax of $67,794,000. Those people had just $7,583,000 left out of a total of $76,374,000.

Mr. LAGUARDIA. What year?

Mr. LITTLE. 1921. This was a total of $67,000,000 collected out of $76,000,000.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. LITTLE. Excuse me, I can not yield now. That left $7,000,000. The tax paid out in that case was 90 per cent. The people retained about 10 per cent of their income. What are these people crying about that pay the taxes we have heard of in the last week. We do not know how to collect taxes, and I hope the discussion will go on until we have a chance to find out a way.

You can now begin to pay your income taxes or get ready to pay inheritance taxes when you are dead. Will you pay now or leave it to your children to pay? This question has got to be solved, gentlemen, some way or other, and if you men can not pay your taxes alive, you can pay them when you are dead.

We now levy a 50 per cent inheritance tax, 25 per cent here and 25 per cent in some of the States. They can take half you have now in that way. Why do you not prefer to pay your income tax now?

I should think any ordinary citizen, any brilliant genius of finance, would rather pay a good, stiff income tax each year than to pay an enormous inheritance tax after he is dead.

On page 2442 of the CONGRESSIONAL DAILY RECORD of February 14, 1924, the gentleman from New York said that under the Mellon plan the total tax reduction would be $233,000,000; that of this tax reduction only 3 per cent would go to incomes of over $100,000. Three per cent of $233,000,000 is $7,000,000 in round numbers. The gentleman from New York thus indicates that those paying taxes on incomes of over $100,000 will gain $7,000,000 a year if the Mellon plan goes into effect. If it goes into effect, their surtax is reduced by 50 per cent. If $7,000,000 is 50 per cent of the surtax they pay, the total surtax they pay is $14,000,000 in round numbers, but their surtax is 50 per cent of their total income, and therefore their total income is about $28,000,000 a year. If we estimate that they have been making a 10 per cent income on the capital they have invested, that capital would be approximately $280,000,000. That is a fair and reasonable estimate. They wish to be protected hereafter so that they will only pay a $7,000,000 surtax on a probable investment of $280,000,000 here in America. Similar people in England pay $67,000,000 in taxes on a $76,000,000 income. They pay 90 per cent in England as compared with 25 per cent in this country if this bill had become a law as reported by the committee.

If we had applied the English law to those $28,000,000 admitted taxable incomes, we would have collected $25,200,000, instead of only $7,000,000. It does seem to be much harder to squeeze the American eagle than the English pound sterling, so the Englishmen borrow our money to take care of their soldiers and big money says, "The war is over. Discontinue the war taxes." Yes; the war is over for the present, but the war debts are not. "The tumult and the shouting dies, the captains and the kings depart," but the $20,000,000,000 debt is still unpaid and can only be paid by the taxes of this country. An immense portion of these great fortunes was made during the Great War while the boys were at the front. A too great proportion was made by dishonest profiteers who, equally dishonest in peace or war, now seek to avoid paying their just debt to the Government. The crippled soldiers are still discharging their war debts.

The gentleman from Massachusetts told us the other day that you can not tax anything that can run away. The cripples can not run away, and the mortgage the war put on them is still a lien. There were many great incomes present after the war, and the principal reason they do not appear on the tax records is because their owners are perjured scoundrels. If we place them in the penitentiary, they will not run away and we will collect those taxes. There is no man in this House who believes that those great fortunes are all in tax-exempt securities. Those men have become outlaws in this land and long since ceased to be entitled to any consideration from the tax collector and the sheriff.

The gentleman suggested that I advocated the doctrine of force. Why, certainly. I go further. I advocate the doctrine of confinement until the goods are delivered in the Treasury. Gentlemen, let us apply the ordinary principles of common sense and justice to dishonest men who seek to evade the law and take advantage of its technicalities, which give no aid for the soldiers' families. We must teach these men a higher code of honor. There is no better protection for their wealth and for this great Nation than the demonstration by the Republic that it is determined its soldiers shall have just and generous consideration. This Congress should definitely determine that the soldiers of this country stand higher in its esteem than the money changers.

The lessons of the last five years, the lessons of the war, should teach every man that the world has changed tremendously as a result of this Great War. People are no longer standing saddled and bridled to be ridden by wealth and power. Hereafter great majorities, not great wealth, will rule. See that you learn that fact before it is too late, before 80 per cent inheritance taxes have been utilized to pay off the war debts of this country. My views on this subject have not changed since May 29, 1917, when I made a very brief speech here on the tax bill then under discussion, which I shall probably republish in the same pamphlet in which this little talk will appear.

Patriotism, honor, and valor are the bulwark of this Nation, not money bags. The world is almost at peace, but in the silent watches of the night when the rains are on the roofs you can still hear in the distance the beat of muffled drums to which march with measured tread those who are dead already and those who are yet to die for this great Republic.

Mr. GREEN of Iowa and Mr. CELLER rose.

The CHAIRMAN. The gentleman from Iowa, chairman of the committee, is recognized.

Mr. GREEN of Iowa. Mr. Chairman, this is a subject that a few days ago we devoted several hours to and by a very decided majority voted down. This is submitted in just a little different form. The gentleman from Texas talked about my being technical. I have been, as I have always been with all Members of the House, more than fair, and have given them this time when they are not entitled to anything here, because it has already been submitted.

Now, gentlemen, what is this proposition? It is simply a proposition in defiance of the law of the United States as it stands to-day, in defiance of the faith and credit extended by the several States, to proceed to put a tax not only upon all State and municipal securities that are to be issued in the future but also upon all those that have been heretofore issued.

Mr. CONNALLY of Texas. Will the gentleman yield? I am with him on this proposition.

Mr. GREEN of Iowa. Yes.

Mr. CONNALLY of Texas. How much does the gentleman from Iowa calculate we would raise the interest rate on these securities issued in the future if we adopted this amendment?

Mr. GREEN of Iowa. Let me tell the gentleman just what effect it would have. It would raise the rate, I do not know just how much, but a certain percentage on all the issues for the next two years, until the case got before the Supreme Court and had been decided against them. Then it would bring in nothing to the Government, and all the money collected would have to be refunded, and the only result would be that the States and municipalities who had issued the securities would have to pay, in the meantime, an additional rate. If any of you gentlemen on that side want to vote for that proposition, you can do so.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. BLACK of Texas. Did not the gentleman oppose the amendment of the gentleman from Virginia [Mr. MONTAGUE] to strike it out in 1918?

Mr. GREEN of Iowa. To strike what out in 1918?

Mr. BLACK of Texas. To strike out a provision taxing the interest from State and municipal securities. Was the gentleman not one of those who opposed the amendment?

Mr. GREEN of Iowa. Let me ask the gentleman a question. The gentleman stated awhile ago that this was in the 1918 law. The gentleman had better read the 1918 law, because there is an express provision in that law exempting them.

Mr. BLACK of Texas. I said it was in the 1918 bill as it passed the House, but it did not pass the Senate.

Mr. GREEN of Iowa. Of course, it did not pass the Senate.

Mr. BLACK of Texas. It passed the House and the gentleman voted for it. [Applause.]

Mr. GREEN of Iowa. But wait a moment. What was the situation at that time? Had the case of Evans against Gore been decided by the Supreme Court at that time? The gentleman knows it had not. The case that covers this matter had not been decided at that time.

Mr. FREAR. Will the gentleman yield? The gentleman who tried that case in the Supreme Court says it did not decide it and that it was obiter dicta and had no relation to it.

Mr. GREEN of Iowa. The gentleman from Wisconsin has made that statement so many times that I suppose he believes it.

Mr. FREAR. That is the reason I am citing it to the gentleman.

Mr. GREEN of Iowa. The gentleman has cited as his authority the man who tried that case and lost it when he ought to have won it. If that suits him as an authority, very well.

Mr. FREAR. It was on a different principle involved, entirely.

Mr. CELLER. Mr. Chairman——

The CHAIRMAN. There is one minute remaining and the gentleman from New York is recognized for one minute.

Mr. CELLER. Mr. Chairman and gentlemen of the committee, I do, indeed, admire the enthusiasm and persistence of the gentleman from Wisconsin [Mr. FREAR] and the gentleman from Texas [Mr. BLACK], but I am afraid that enthusiasm and that persistence is entirely misguided. We would, indeed, stultify ourselves if we would adopt this amendment, the principle of which was denounced by the Supreme Court of the United States, and it is idle for us to keep arguing and talking about this question over and over again. We get nowhere whatsoever. I say to the gentleman from Wisconsin that it was not obiter dicta with reference to the decision of Evans against Gore. That case squarely decided the proposition that within the realm of the sixteenth amendment you could not tax, and this body had no power to tax, any new or excepted subjects, subjects which the Congress had not power to tax before that decision, and just as Congress could not cause a diminution of the salary of a Federal judge, Congress could not tax the instrumentalities of a State, such as the income from tax-exempt securities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BLACK].

The question was taken; and on a division (demanded by Mr. BLACK) there were—ayes, 47, noes 115.

So the amendment was rejected.

Mr. NEWTON of Minnesota. Mr. Chairman, I move to strike out the last word. Section 213 provides for taxing the salary of the President of the United States and various Federal judges. No provision is made that it is to apply only to those who have taken office following the enactment of the law making their income subject to the tax.

Mr. GREEN of Iowa. I will say that it is the same as the present law, and of course it dates back to the enactment of the present law and applies to those appointed since.

Mr. NEWTON of Minnesota. So it is necessary if the judge was appointed before February 24, 1919, when the provision was first enacted, for him to make an express claim for exemption on the ground that the tax constitutes a diminution of his salary.

Mr. GREEN of Iowa. Yes.

Mr. NEWTON of Minnesota. I want to make another observation in reference to the case of Evans *v.* Gore (253 U. S.). It is established by Evans against Gore in the majority opinion that the taxing of the salary of a Federal judge who was in office when the law is passed is a diminution of that salary, and therefore in violation of section 1 of Article III of the Constitution. There can be no question about that. Now, then, section 1 of Article II of the Constitution of the United States provides that the salary of the President of the United States shall neither be diminished nor increased during his term of office. If the taxing of the income of the President is a diminution of his salary, then it would appear to follow that a reduction in the tax during his term is an increase of the salary in accordance with the majority opinion of the Supreme Court in Evans against Gore. I merely call it to the attention of the House. The dissenting opinion of Judge Holmes and Judge Brandeis seems to me to be more logical and better law and more in keeping with the situation. If anyone should raise the question after this reduction becomes law, it seems to me the court would have difficulty in not holding that the reduction was in a constitutional sense an increase in the salary of the President of the United States during the period for which he was elected.

Mr. GREEN of Iowa. I do not agree with the gentleman, and if I did it would not make any difference as to the provisions in this paragraph.

Mr. NEWTON of Minnesota. My purpose was to make an additional comment on the decision in Evans against Gore with which, as the House knows, I have not been in accord.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last two words. With reference to taxing the salary of United States judges, I want to say that it is about time that we gave the Federal judges a decent living salary instead of taxing and taking away a part of the measly salary that they get now. In New York City we pay the judges of the supreme court $17,500.

Mr. CELLER. And they are asking for $25,000.

Mr. LAGUARDIA. Yes; and they are worth it. You get an honest, independent judge and he is worth $25,000. I hope to see the time that the House will give very serious consideration to giving the Federal judges a reasonable and sufficient salary. Pay the Federal judges a decent salary and we may get the right kind of an independent man to take the job.

Mr. KNUTSON. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. KNUTSON. Is the gentleman trying to build up a tax-exempt class in this country?

Mr. LAGUARDIA. Oh, no; the gentleman knows I would not advocate that.

The Clerk read as follows:

(b) The term "gross income" does not include the following items, which shall be exempt from taxation under this title:

(1) The proceeds of life insurance policies paid upon the death of the insured;

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;

(3) The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income);

(4) Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) securities issued under the provisions of the Federal farm loan act, or under the provisions of such act as amended; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations or securities enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing the number and amount of such obligations and securities owned by him and the income received therefrom, in such form and with such information as the commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit), the interest shall be exempt only if and to the extent provided in the respective acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt to the taxpayer from income taxes;

(5) The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States;

(6) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the Government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, the tax upon the income from the operation of such public utility shall be collected and paid in the manner and at the rates prescribed in this title; but there shall be refunded to such State, Territory, or political subdivision thereof, or the District of Columbia, under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary, a part of such tax equal to the amount by which the share of the income from the operation of such public utility accruing to such State, Territory, or political subdivision thereof, or the District of Columbia, was reduced by the imposition of such tax;

(8) The income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States;

(9) Amounts received as compensation, family allotments and allowances under the provisions of the war risk insurance and the vocational rehabilitation acts, or as pensions from the United States for service of the beneficiary or another in the military or naval forces of the United States in time of war;

(10) The amount received by an individual before January 1, 1927, as dividends or interest from domestic building and loan associations, substantially all the business of which is confined to making loans to members, but the amount excluded from gross income under this paragraph in any taxable year shall not exceed $300;

(11) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(12) The receipts of shipowners' mutual protection and indemnity associations, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents;

(13) In the case of an individual, amounts distributed as dividends to or for his benefit by a corporation organized under the China trade act, 1922, if, at the time of such distribution, he is a citizen of China, resident therein, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

Mr. McKEOWN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 38, line 15, after the semicolon, insert a new section as follows: 25 per centum of all incomes derived from cheap sanitary dwellings rented to families having more than two children under 16 years of age: *Provided*, That two-thirds of the apartments in such dwelling must be used for housing families having children.

Mr. McKEOWN. Mr. Chairman and gentlemen of the committee, this amendment may seem to you rather strange. I have no place in my district that it applies to, and I have no constituent that would be benefited by it. I want to call the attention of Congress to the great necessity now existing in the United States for sanitary cheap dwellings for workmen with families. One of the great troubles is that a man with a family can not find a place to live, either within reach of his means or he is barred because he has children. Now there is nothing socialistic in this proposition, because for years it has been the law in other countries that the people who have money to invest have been encouraged by tax exemption to invest in buildings of this character. It is needed in the great cities in this country, and the language used, "sanitary cheap dwellings," will cover apartments. I do not want any man to secure 25 per cent allowance on an income because he could rent one apartment in his apartment house, but he must let at least two-thirds of the tenement to families having more than two children. Perhaps you think it is rather novel, but you have not given attention to it. I say to you now that the great need in this country to-day is the housing of people of small means as well as those of medium. One-third of every dollar paid out in Washington by the Government goes to the landlords.

If you want to know how much money is spent in Washington for rents, just take the amount of money that is paid in salaries in this city, and you will find that one-third of it goes to the landlords. Rents throughout the country have gone up 80 per cent since 1917. This matter is no light matter. We are here to legislate for the benefit of all of the people of the country, and I say to you that you let the people of the country, who are unable to protect themselves, live in tenement houses from which come boys growing into manhood, who have no chance in life, and conditions that grow some citizens who may cause a great deal of trouble in this country. They have no chance; they are growing up under environments which are likely to make them dangerous citizens. Yet we sit here in the Congress and pay no attention to it. You may vote down this amendment promptly, because it has not had the consideration of the committee. Yet the language of the amendment is drawn from the law as it is in effect in other countries where it has proven of great benefit. I am asking that you make this exemption, not that I know of a single instance where it will apply, but as an inducement to philanthropic men, to men of great wealth, to construct these buildings so that these people can have a place in which to live.

Mr. BOYLAN. Mr. Chairman, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. BOYLAN. I am in thorough sympathy with the amendment proposed by the gentleman, but I think there should be a more complete definition or restriction. For instance, the gentleman should specify what he means by "sanitary" and what he means by "cheap." I think he should put a limit upon the total value of the building. In the city of New York we have exempted buildings to a certain extent. I think there would be a limitation placed upon the value of each building.

Mr. McKEOWN. In reply to that, I might say that the gentleman now touches upon one thing that is a great wrong in respect to our laws to-day. Instead of writing down plain, everyday language so that everyday American citizens may understand what we mean, so the courts can understand what we mean, we undertake to enter the realm of definitions.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. McKEOWN. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. McKEOWN. Every man in this House knows and every citizen in this country knows what a cheap house is, and what a sanitary house is. We write too many statutes with too many definitions in them, until it is so that nobody can tell, layman or court, what we mean by our language. If we would simplify the language in which we write our laws we will get along very much better.

Mr. BOYLAN. Mr. Chairman, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. BOYLAN. I am in thorough sympathy with the amendment of the gentleman, but I would like to see it couched in such language that it will be productive of some good.

Mr. McKEOWN. This is the language that is used in other statutes. It is also similar to the language used in the French act, which went into effect many years ago. Of course I take the gentleman's suggestion seriously. If one wanted to go to work and draw a bill embodying this idea, one could very well do so, but this is a simple exemption of 25 per cent on the incomes of men who will invest their money in sanitary, cheap houses for persons with children. It is a shame that in the city of Washington one can not get a place for himself and family for no other reason than that there are children in the family. Get out and try to get an apartment, and the first question that will be asked will be how many children you have. If you have any, you are barred. That ought not to be permitted in Washington or in any other place. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, I sympathize with the purpose of my friend from Oklahoma, but I think the House will take him at his word and vote this amendment down very quickly and promptly. The fact of the matter is that, outside of the merits of the question, the amendment offered by the gentleman is absolutely impossible of administration. There is no way of determining whether it be a cheap house or a sanitary house. If there was, it would draw an unfair comparison between that and more expensive dwellings.

Mr. CHINDBLOM. That would not be any harder than to determine the capital investment of a farmer or a small merchant.

Mr. GREEN of Iowa. But that question has been passed over.

Mr. BOYLAN rose.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate upon this amendment and all amendments thereto close in five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BOYLAN. Mr. Chairman, I think this is a really serious amendment, and that it should not be shouted down by merely saying that it is not serious. What is closer to us than to provide for housing conditions? First we must have food and clothing, and necessarily that must be followed by proper housing conditions. In the city of New York we have endeavored to solve this problem by providing an exemption in respect to the cost of buildings to a certain amount in order that additional facilities might be provided and in order that encouragement might be given to building. The greatest asset to the country to-day is the children of the country. [Applause.] Why should we not cater to anything or any means to bring about better living conditions for the children of these United States? Why not have cheap sanitary dwellings, providing that families with children should have the preference? What greater incentive could be given to capital than an exemption of this kind? This is a serious proposition, and I believe that the amendment should prevail. It will show that we are in favor of helping the main bulwark and asset of our civilization in this country, and it would tend to create a better citizenship as these children grow up. The amendment is humane, and to my mind it is germane to the bill now under discussion. Nothing better could be done than to adopt this splendid, humanitarian amendment proposed by the gentleman from Oklahoma. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. McKeown) there were—ayes 76, noes 84.

The CHAIRMAN. The Clerk will read.

Mr. McKEOWN. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman is within his rights. Does the gentleman ask for tellers?

Mr. McKEOWN. Yes.

The CHAIRMAN. Tellers are demanded.

Tellers were ordered, and the Chair appointed Mr. McKEOWN and Mr. GREEN of Iowa to act as tellers.

The committee again divided; and the tellers reported—ayes 71, noes 108.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEDUCTIONS ALLOWED INDIVIDUALS.

SEC. 214. (a) In computing net income there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

Mr. JACOBSTEIN. Mr. Chairman, when shall I have the right to offer an amendment?

The CHAIRMAN. The gentleman will have the right to offer an amendment to that paragraph at the end of the reading of the paragraph, namely, at the end of the section numbered as (a) on page 43.

Mr. JACOBSTEIN. I can offer it at that time as if it were offered after the paragraph?

The CHAIRMAN. Yes; that is correct. The Clerk will proceed with the reading.

The Clerk read as follows:

(2) All interest paid or accrued within the taxable year on indebtedness;

(3) Taxes paid or accrued within the taxable year, except (A) income, war-profits, and excess-profits taxes imposed by the authority of the United States, (B) so much of the income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States as is allowed as a credit under section 222, (C) taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and (D) taxes imposed upon the taxpayer upon his interest as shareholder of a corporation which are paid by the corporation without reimbursement from the taxpayer. For the purpose of this paragraph, estate, inheritance, legacy, and succession taxes accrue on the due date thereof, except as otherwise provided by the law of the jurisdiction imposing such taxes;

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business;

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but in the case of a nonresident alien individual only if the profit, if such transaction had resulted in a profit, would be taxable under this title. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within 30 days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed;

(6) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a nonresident alien individual only property within the United States) if arising from fires, storms, shipwreck, or other casualty, or from theft, and if not compensated for by insurance or otherwise. The basis for determining the amount of the deduction under this paragraph, or paragraph (4) or (5), shall be the same as is provided in section 204 for determining the gain or loss from the sale or other disposition of property.

(7) Debts ascertained to be worthless and charged off within the taxable year (or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part the commissioner may allow such debt to be charged off in part.

(8) A reasonable allowance for the exhaustion, wear, and tear of property used in trade or business, including a reasonable allowance for obsolescence.

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary. In the case of leases the deduction allowed by this paragraph shall be equitably apportioned between the lessor and lessee.

(10) Contributions or gifts made within the taxable year to or for the use of: (A) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; (B) any corporation, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; (C) the special fund for vocational rehabilitation authorized by section 7 of the vocational rehabilitation act; or (D) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual, to an amount which in all the above cases combined does not exceed 15 per cent of the taxpayer's net income as computed without the benefit of this paragraph. In case of a nonresident alien individual this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations created in the United States, or to such vocational rehabilitation fund. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner with the approval of the Secretary.

Mr. JACOBSTEIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JACOBSTEIN: Page 39, line 24, after the semicolon following the word "equity" insert "all necessary expenses actually paid during the taxable year to physicians, nurses, hospitals for medical or surgical treatment, attendance, or service to the taxpayer or the members of his immediate family."

Mr. JACOBSTEIN. Mr. Chairman, the purpose of this amendment is to enable people to deduct from their individual income tax some of the expense incurred in maintaining health. You have heard a section read in which business men and manufacturers are entitled to deduct from their income expenses incurred in maintenance, depreciation, repair, and so forth, of machinery. Is it not more than fair that individuals be permitted to deduct from their income the sums of money spent in maintaining health?

To cover this item, the amendment reads, on page 39: "That all necessary expenses actually paid to physicians, nurses, hospitals, for medical or surgical treatment, attendance or service to the taxpayer or to members of his immediate family" shall be deducted. In a word, if I have to spend for myself or for my wife or for my children sums of money to maintain my health or their health, I believe I am entitled to a deduction. That is absolutely a logical inference from our whole income-tax procedure. You allow a business man a deduction when he spends money to repair a machine. What is more important than to keep the human machine in fit condition? [Applause.]

It seems to me that on the very face of it the amendment which I have offered has such merit that it ought to be passed without great debate. I think nothing further need be said on it. So far as I am concerned, it seems to me like a very simple, straight proposition, easy to administer, if that question is in your mind. It simply means you would have to record on your return the amount of money you have paid to your physician or to the hospital or to the nurse. Those things are items just as your charitable contributions are items on your return.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. JACOBSTEIN. Yes.

Mr. HUDDLESTON. At the present time we allow deductions to be made on account of fire, tornadoes, and other destruction of property. Is there any reason why we should not allow allowance for a fire that should injure a man personally and allow for his expenses incurred thereby, impairing his earning capacity?

Mr. JACOBSTEIN. Answering the gentleman's question, of course there is no reason for making that distinction. Unfortunately our laws have been framed, so to speak, from the viewpoint of property as against that of human life, without giving due consideration to the human aspects of the situation.

Mr. STENGLE. Mr. Chairman, will the gentleman yield?

Mr. JACOBSTEIN. Certainly.

Mr. STENGLE. Does your amendment include, under the title of physicians, an osteopath or a chiropractor?

Mr. JACOBSTEIN. Any service rendered by any professional person to maintain health. The word "physician," I think, is generic enough, general enough, to cover all professional services intended to maintain health and which actually do maintain it. [Applause.]

When we gentlemen go to pay our Federal income tax on March 15 we will deduct from our gross income, under the law, the following items of expense:

Repairing of machines (in factories).
Repairing a house.
Repairing a barn.
Depreciation on our factory machinery.
Loss due to bad debts.
Loss due to bad investments.
Loss by theft.
Loss by fire, storm, tornado, shipwreck.
Contributions to charitable organizations.
Contributions to religious organizations.
Contributions to educational institutions.
Necessary expenses in carrying on a business or trade.

These are regarded as reasonable deductions, the theory being that the individual who has to pay out money in any of these ways does not derive any enjoyment from the expenditure. These are justifiable deductions, because the theory of the income tax is that the tax is on net income and not on gross income.

This being so, I maintain that we ought to be permitted to deduct from our gross income money spent to maintain health. If an employer is entitled to a deduction when he spends money for the upkeep of a machine, why am I not entitled to a deduction for the upkeep of my bodily health and the health of my wife and children?

The injustice of the present law was brought home to me recently by a letter which I received from one of my constituents, Mr. Otto R. Rohr, president of the Stecher Lithographic Co., of Rochester, N. Y., which I take the liberty of inserting herewith:

I note from our local papers that you have been in receipt of considerable correspondence relative to Secretary Mellon's suggestion in connection with a revision and reduction of the income tax.

I will not burden you with my thoughts in the matter other than to say that the members of our organization are in entire accord with Secretary Mellon's suggestion, with which we know that you to quite some extent agree.

There is, however, one phase of the income tax regarding which one hears considerable comment when the matter is discussed, particularly amongst working people, that has not been touched upon in the discussions relative to the income tax which appear in the papers, and that is that our income-tax regulations of the past have made no provision for a deduction from income for the amount which one may be compelled to pay following the misfortune of serious accident or illness.

As an example I might cite the instance of an employee here whose wages are about on an average with those of other employees.

He had illness in the family, which involved hospital, doctor's, and nurses' bills in excess of $500, and he had to pay the same income tax that his more fortunate associates paid.

The law as it now exists does not give him the benefit of deducting from his income tax owing to the misfortunes which he had to go through.

It is really a case of having it rubbed in. It is bad enough to have the misfortune without having to pay a tax on the money which he earns in order to honorably take care of his responsibilities.

I am bringing this phase of the matter to your attention with the hope that you may see your way clear to endeavor to do something to relieve the situation that I have indicated above.

What can be more reasonable than to permit a deduction for an item of expense which has for its purpose the keeping in efficient condition the human body? The health of the individual is essential for productive efficiency in industry.

Our Government ought by every means to encourage and not penalize expenditures for health purposes. It is for the purpose of incorporating this reasonable and obviously fair proposition into the law that I am offering an amendment, which reads as follows:

Deduction shall be permitted for—

"all necessary expenses actually paid during the taxable year to *physicians, nurses, hospitals,* for *medical* or *surgical treatment,* attendance or service, to the taxpayer or the members of his immediate family."

Certainly this amendment is as reasonable as subdivision 8 of this section of the law, which reads as follows:

Deductions allowed individuals:

"(8) A reasonable allowance for the exhaustion, wear, and tear of property used in trade or business, including a reasonable allowance for obsolescence."

And it is certainly as reasonable as the ninth subdivision, which reads as follows:

In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary. In the case of leases the deduction allowed by this paragraph shall be equitably apportioned between the lessor and the lessee.

The passage of my amendment would lift the human body just up to the plane of a mere machine, of an oil well, a gas well, or a coal mine.

If misfortune through accident, shipwreck, storm, or fire causes loss, that loss is permitted as a deduction, but when through an act of God misfortune strikes down the human body and the individual seeks to rehabilitate that body, we do not permit such expense to be deducted. I maintain that this is as unreasonable as it is illogical.

Why it should be necessary to wipe out such inconsistencies in the law is hard to explain. When laws are made from the viewpoint of human rights and not merely from that of property rights, such glaring inequalities will not appear.

There can be no serious objection made to the proposed amendment on the ground of administration. Health expense items can be entered on our returns just as easily and just as honestly as our charitable, philanthropic, and educational contributions. I hope, therefore, that you will see this question as I see it and vote for the amendment I have proposed. Health is our greatest national asset.

That this suggestion of mine has met with popular approval is indicated by the number of letters I have received expressing sympathy with it. Public sentiment was probably crystallized and expressed in an editorial which appeared in the Rochester Journal and Post Express of January 26, which I am here reprinting:

THE HUMAN POINT OF VIEW—TIMELY CALLING OF ATTENTION TO IT BY CONGRESSMAN JACOBSTEIN.

Schools and hospitals are exempt from taxation, because education and health are deemed of prime public importance.

The proposal of Representative JACOBSTEIN, of the Rochester district, to the House Ways and Means Committee that exemption from income taxation be given for money individually spent for medical and hospital service and for the schooling of children is in line with this.

A business man, he points out, in arriving at his profits as a basis for taxation, is allowed to subtract the cost of upkeep of his plant, including the repair of machinery.

The worker's plant is his body and his mind. Is not the cost of their upkeep equally entitled to exemption?

Raising of this new point is timely. It illustrates the value of having in Congress men trained to look to the protection of human as well as mere property values.

Mr. McSWAIN. Mr. Chairman, I have a substitute to offer on the same line.

The CHAIRMAN. The gentleman will be recognized by the Chair.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes. Of course, I want to use up that time myself.

Mr. CELLER. Mr. Chairman, I want to speak on it.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment close in 10 minutes. Is there objection?

Mr. CELLER. Reserving the right to object, Mr. Chairman, if the gentleman will make it 15 minutes and let me have 5 minutes I shall not object.

Mr. GREEN of Iowa. We are fast turning this discussion into a joke. I move, Mr. Chairman, that all debate on this amendment close in 10 minutes.

Mr. McSWAIN. Mr. Chairman, I ask that it be made 20 minutes.

The CHAIRMAN. The gentleman from Iowa moves that the debate on this amendment close in 10 minutes. The question is on agreeing to that motion.

Mr. McSWAIN. I offer an amendment, Mr. Chairman.

Mr. SANDERS of Indiana. Mr. Chairman, the gentleman from South Carolina is authorized to offer an amendment under the rules.

The CHAIRMAN. The Chair has stated that the gentleman will be recognized for that purpose.

Mr. SANDERS of Indiana. The gentleman from Iowa has offered a motion to limit debate to a certain time. My recollection of the uniform practice is that when an amendment is proposed the Chair shall put the vote first on the amendment to the amendment. The amendment of the gentleman from South Carolina is offered, as I understand it, to the motion of the gentleman from Iowa. The gentleman's motion is not debatable, but amendable.

The CHAIRMAN. The gentleman from South Carolina [Mr. MCSWAIN] moves as an amendment to the motion made by the gentleman from Iowa [Mr. GREEN] that the time be 20 minutes instead of 10 minutes.

The question was taken, and the amendment was rejected.

Mr. MCSWAIN. Mr. Chairman, I asked for recognition because I have offered a substitute to the amendment offered by the gentleman from New York, and that substitute is now on the desk of the Reading Clerk.

The CHAIRMAN. The gentleman will be recognized when that times comes. The question now recurs on the motion made by the gentleman from Iowa.

The motion was agreed to.

The CHAIRMAN. The gentleman from South Carolina [Mr. MCSWAIN] offers a substitute for the amendment offered by the gentleman from New York [Mr. JACOBSTEIN], which the Clerk will report.

The Clerk read as follows:

Page 39, line 24, insert "not exceeding $500 for each person, including husband or wife, dependent upon and receiving his chief support from the taxpayer, if such dependent person is under 21 years of age or is incapable of self-support because mentally or physically defective and resides in taxpayer's household, when the taxpayer proves that he has paid cash, not exceeding $500, for medical, hospital, nurse, or funeral expenses."

Mr. MCSWAIN. Mr. Chairman and gentlemen of the committee, I am entirely in sympathy with the sentiment expressed in the amendment of the gentleman from New York [Mr. JACOBSTEIN]. But I apprehend that there is some difficulty in the minds of all of you who sympathize with the thought that the human instrumentality concerned in producing revenue, whereby taxes may be paid, must itself be first of all kept in order and that the difficulty in your minds is that it is wide open; that there is no limit as to the amount that may be deducted nor as to the persons to whom the money shall be paid or whether or not it shall be paid in cash.

My substitute proposes to follow almost identically the language on page 47 of the bill with regard to the person for whose benefit the expense is incurred, to wit: Where there is any person dependent upon a taxpayer, whether under 21 years of age or not, residing in that taxpayer's household and that person is sick or disabled and has to go to a hospital to be operated on or has to have medical attention, or if that person dies, that the expenses of the doctor, the hospital, or the undertaker shall be deducted from that year's earnings in an amount not exceeding $500.

We have put under the head of exemptions, on page 47 of the bill, the arbitrary sum of $400 for each child, a member of the family, under 18 years of age. We all know that $400 will not clothe and feed a child for 12 months, but we fix that as a fair average. While $500 may not take care of all the hospital, nurse, medical, surgical, and undertaking expenses that may happen in the case of any one child in a year, yet it is a fair average and it is a fair deduction, and it is that much deduction in addition to what is now allowed by law. It seems to me it is so obviously a necessary and reasonable deduction from the earnings of the year that there ought to be, with these limitations and hedgings put about it, no reasonable and fair ground for opposition.

We allow deductions for bad debts. We credit a man when we think he will pay us, but he fails to pay and we deduct it. Yet no man, by the exercise of any judgment, can ward off the misfortune of sickness or death that may come to himself or to the members of his family.

It seems to me it would be the most reasonable, fair, and logical deduction that could be made from the earnings of a man within a period of 12 months. It is designed to take care of emergencies, and the taxpayer must prove he paid out the cash to get the deduction, just as he must prove business expenses, interest, losses, bad debts, depreciation, and religious, charitable, and educational contributions.

Mr. GREEN of Iowa. Mr. Chairman, I appeal to the House to use some little reasoning and judgment on these amendments that come before it and not, as a little while ago, turn this whole matter into a joke.

We have here a great revenue bill affecting a great people. No more serious or no more important matter could possibly come before this House.

The gentlemen who have just spoken are actuated by the best of purposes, no doubt; but if these gentlemen will pardon me, do they not really think that gentlemen who have been studying these subjects for 10 or 12 years—with the advisers they get from the Treasury Department and elsewhere, very great experts, as many of them are—are really just a little better qualified to draw these provisions than they are?

The gentleman from Texas [Mr. GARNER] has already by his amendment enlarged the exemptions to $2,000 for a single person and $3,000 for a married person. No other country in the world gives half as much exemption; in fact, nowhere else do they ever give half that exemption, and the purpose of those exemptions is to take care of just such kinds of cases as are presented by this amendment.

Mr. LARSEN of Georgia. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. LARSEN of Georgia. If I understood the gentleman, the force of his remarks is that the men who have been studying these propositions for 10 or 12 years are not dependent on anyone else in writing provisions for a bill of this character or perfecting provisions. Now, if that is so, why should the gentleman bother to bring the bill before the House if gentlemen in the House are not to have a voice in framing it?

Mr. GREEN of Iowa. I did not yield to the gentleman for a speech. I thought the gentleman wanted some information, and, Mr. Chairman, I decline to yield further.

The CHAIRMAN. The gentleman from Iowa declines to yield further.

Mr. HUDDLESTON. Will the gentleman yield to me?

Mr. GREEN of Iowa. I will yield to the gentleman for a question.

Mr. HUDDLESTON. I want to ask the gentleman a question. How does the gentleman discriminate between the exemption allowed for food and clothing for dependents and an exemption for expenses incident to medical attention for dependents? That is a legitimate question.

Mr. GREEN of Iowa. I do not. I see no distinction.

Mr. HUDDLESTON. Then why should we not have one?

Mr. GREEN of Iowa. We have already allowed $400 for the purpose of caring for this kind of a thing—that is, to cover the food and clothing of dependents and the general exemption for the same purpose. We allow all that without any distinction whatever.

Mr. HUDDLESTON. Will the gentleman yield further?

Mr. GREEN of Iowa. Yes.

Mr. HUDDLESTON. That is allowed whether there be sickness or not, and, therefore, it is not aimed at sickness; it is aimed at the necessary expenses, which are food and clothing, and not for emergency and extraordinary expenses incident to a spell of sickness.

Mr. GREEN of Iowa. I do not know what else it is allowed for if not for such purposes, but I wish the gentleman would permit me to use a little of my own time.

Mr. HUDDLESTON. I thought the gentleman was through.

Mr. GREEN of Iowa. The reason that is done is because it is absolutely impracticable to administer the law in any other kind of way. You can not expect to have the Treasury Department investigate into the family affairs of 10,000,000 families, and I think there is something like that number in this country. That is exactly what the Treasury Department would have to do under the substitute offered by the gentleman from South Carolina [Mr. MCSWAIN] and under the amendment offered by the gentleman from New York [Mr. JACOBSTEIN].

Mr. HAWLEY. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. HAWLEY. In the family deduction which we have allowed did we not consider that, in addition to food and clothing, medical attendance would probably also be taken care of?

Mr. GREEN of Iowa. Certainly; that was the very purpose of it. This amendment simply means that the Treasury Department will have to investigate every solitary case of sickness that occurs over this country. It would throw such a burden on the Treasury Department in the administration of these taxes as to make it absolutely impossible for them to ever get through with the work and ever assess the taxes. Now I yield to my friend from South Carolina [Mr. MCSWAIN].

Mr. MCSWAIN. I will ask the chairman of the Ways and Means Committee if, as a matter of fact, each one of the nine

subdivisions of deductions is not predicated upon the ascertainment of facts such as bad debts. What would be more difficult to satisfy a revenue collector about than that you had lost bad debts? This is only one more. It is only 10, instead of 9.

Mr. GREEN of Iowa. It is 10,000 instead of 9; that is what it is.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. GREEN of Iowa. All time on this debate is exhausted.

Mr. CELLER. Mr. Chairman, I rise in support of the motion.

The CHAIRMAN. The gentleman from New York is recognized for two minutes.

Mr. GREEN of Iowa. Mr. Chairman, I make the point of order that the time is exhausted.

The CHAIRMAN. The time is not exhausted according to the timekeeper.

Mr. GREEN of Iowa. I understood the Chair to say that I had exhausted my time, and I supposed that was all the time.

The CHAIRMAN. The gentleman from South Carolina used three minutes and the gentleman from New York [Mr. CELLER] is recognized for two minutes.

Mr. CELLER. Mr. Chairman and members of the committee, I deem it comes with ill grace from the chairman of the committee which drafted this bill to say we are treating this proposition as a joke. I do not believe in the mind of anyone here it is a joke to say that you should deduct necessary expenses incurred in an emergency, in a case where there is an act of God interfering with the normal health of the individual or family. Surely it is not the man's fault or the woman's fault if he or she becomes ill or the children become ill, and there should be some consideration given with reference to that emergency.

The chairman has said they have given a great deal of time and study to this proposition. Indeed, they have, and the thanks of this House are due them for their patient labors, but, nevertheless, despite that fact, they must take suggestions from the other Members of the House. They are, indeed, not the last word on income tax laws or the laws with reference to the raising of revenue. We certainly have the inherent right to make suggestions and to offer amendments, and we should not be called jokesters because we do it. It has been asked, "What shall come within the definition of physician?" And I will say to my good friends that the word "physician" is all-embracing. If one happens to be a Christian Scientist, a healer would come within the term "physician," and any expenditure made for healing of that sort would be a deduction. New York, for example, recognizes all manner and kind of "physicians" under its law, and allows them to practice, and the term includes osteopaths, healers, chiropractors, and so forth; and I say, with reference to that, that the particular law obtaining in the particular State would govern. We take the duty off of dirks and daggers and bowie knives, and yet we are told to hesitate before we allow a deduction for a doctor's bill. The rich man can pay a doctor's bill without any effort.

Mr. SUMMERS of Washington. Will the gentleman yield for a question?

Mr. CELLER. I yield.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SUMMERS of Washington. Under this proposed amendment would the physician administering the treatment necessarily have to be a licensed practitioner?

Mr. CELLER. That depends upon the law of the State in which the matter arises.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from South Carolina [Mr. MCSWAIN].

The question was taken; and on a division (demanded by Mr. MCSWAIN) there were—ayes 40, noes 100.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from New York [Mr. JACOBSTEIN].

The question was taken; and on a division (demanded by Mr. JACOBSTEIN) there were—ayes 24, noes 104.

So the amendment was rejected.

The Clerk read as follows:

(c) The amount of the deduction provided for in paragraph (2) of subdivision (a), unless the interest on indebtedness is paid or incurred in carrying on a trade or business, and the amount of the deduction provided for in paragraph (5) of subdivision (a) shall be allowed as deductions only if and to the extent that the sum of such amounts exceeds the amount of interest on obligations or securities the interest upon which is wholly exempt from taxation under this title.

Mr. STEVENSON and Mr. KINDRED rose.

Mr. KINDRED. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. KINDRED: Page 44, line 13, after the title insert a semicolon and the words "all premiums paid on life, sick benefit, and annuity insurance policies the face value of which shall not exceed $10,000 at maturity."

The CHAIRMAN. The gentleman from New York [Mr. KINDRED] is recognized

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto close in seven minutes.

Mr. STEVENSON. Mr. Chairman, reserving the right to object, I have an amendment, which is the only one I will offer to this bill, so far as I know, and I want a little time to discuss it.

Mr. GREEN of Iowa. On another point?

Mr. STEVENSON. Yes; on another point entirely different from this.

Mr. GREEN of Iowa. Then I will simply ask that that apply to the amendment of the gentleman from New York.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that all debate on this amendment close in seven minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. KINDRED. Mr. Chairman and gentlemen of the committee. The obvious intent of my amendment is to exempt premiums paid by the great mass of our poor people in this country on life insurance policies of small amount, premiums on sick benefit policies and those paid on annuity policies.

It will be admitted on every hand that money invested in life insurance, in sick benefit funds and in annuity insurance is for the protection of helpless widows, children, and dependents, and therefore for the protection of society at large. It will be admitted, I am sure, also, that money invested in premiums on life insurance of small amounts fosters thrift and prosperity as no other investments do. It will be admitted also that investments in annuity insurance are protection against probable hardships that will come otherwise in old age.

I have purposely limited the amount of the insurance, the premiums on which I would exempt, to a very small amount of insurance, namely, $10,000. Surely $10,000 or less—and most of the insurance policies here referred to are for much less than that sum—is a small amount, in these days of high cost of living and great burdens of taxation, a very insignificant amount, which a man dying might leave to his helpless widow and children for their support and for the education of the children.

Surely, no fair-minded Member of this House will deny that an exemption of this class of investment is the best exemption that could be made in any clause of an income-tax bill, and in order to protect the great masses of people in this country, who are always the backbone and the sinew of our Republic, I ask your favorable consideration, without further debate, of this very reasonable amendment to protect the poor in the small amounts of insurance which they carry. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, the amendment offered by the gentleman from New York [Mr. KINDRED] is offered in altogether the wrong place. I think the gentleman will acquit me of any intention to mislead him. I did not suggest to the gentleman to offer it at this place.

Mr. KINDRED. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. KINDRED. I yield all honor and respect to the gentleman for technical knowledge in such matters. I consulted him, told him where I was going to offer the amendment, and I heard no objection. I really thought he was going to support my amendment.

Mr. GREEN of Iowa. I do not know how the gentleman got such an idea as that. I want to deal fairly with the gentleman, and if I thought there was any prospect of the amendment carrying I would be willing to submit a request for unanimous consent and let him put it in in the proper place. This paragraph to which he has offered the amendment simply applies to interest; it relates back to another paragraph, and if this amendment was added here it would not mean anything.

Mr. KINDRED. It was intended as a separate clause or a separate paragraph.

Mr. GREEN of Iowa. That is not the way it reads.

Mr. KINDRED. If there is any question about the technical place, I will ask unanimous consent to correct my amendment so it will appear as a new paragraph in line 13.

Mr. GREEN of Iowa. I will say to the gentleman that the amendment offered by him will not be worth anything. These

poor people are all exempt; they do not pay any income tax. The man who does not have an income of $4,000 or $5,000 will pay no income tax.

The CHAIRMAN. Does the gentleman from New York desire to offer a unanimous-consent request?

Mr. KINDRED. No, Mr. Chairman; I will ask for a vote on the amendment. I think the amendment is well understood.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. KINDRED].

The question was taken, and the amendment was rejected.

Mr. STEVENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEVENSON: Page 44, at the end of line 13, strike out the period and insert a semicolon and add: "*Provided*, That this shall not apply to interest received from farm-loan bonds."

Mr. STEVENSON. Mr. Chairman, I want to state this quickly and succinctly. The proposition here is that a man who makes an income-tax return when he gets the gross income has a right to deduct from the gross income interest paid out in carrying on his business. This exception provides that if a part of the income shall be received from tax-exempt securities he must take that from the interest paid out and can only deduct the balance.

Take a man with a gross income of $20,000, of which $3,000 comes from farm-loan bonds or any other tax-exempt securities. He has paid out $5,000 interest, and if this did not apply he would have to pay a tax on $15,000, but before he can deduct the $5,000 he must take from it the $3,000 got from the tax-exempt securities, and therefore can only deduct $2,000 and is taxed on $18,000. In other words, he is taxed on the income he had from tax-exempt securities absolutely. Why do I limit my provision to farm-loan bonds?

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. STEVENSON. In a moment. I will tell you why I limit it to that. It is because it will be deducted as to State and municipal securities, regardless of this law, because they are protected by the Constitution; but the exemption of interest on farm-loan bonds is merely a statutory exemption, and this being a statute of the same body, but of later date, it will supersede it and we will get the income received from farm-loan bonds taxed by making two moves instead of one and still it will stand as to them. In so far as all of the other tax-exempt securities are concerned, they will escape, unless, perhaps, it may be United States bonds.

There is another thing about it. Liberty bonds are not entirely tax exempt. There is a surtax on the income from Liberty bonds, and consequently you do not have to deduct from the interest you pay, and the Liberty bonds will be preferred over these under this section, which is shrewdly done apparently for that purpose.

If the gentleman will look at the section he will see that that is correct. I think it is poor policy to provide in the first part of this bill that securities issued under the provisions of the farm loan act or any provisions of such act as amended shall not be taxable, and then over here make them pay a tax, if the owner happens to have paid out interest.

Mr. CHINDBLOM. What is there to prevent a man from borrowing $20,000 and buying farm-loan bonds with that money and then taking a deduction for the interest paid upon the money with which to buy the tax-exempt securities?

Mr. STEVENSON. If there is nothing in here to prevent that, that is the fault of the committee, but it would be a fool financier who would pay 6 per cent for money to buy 4½ per cent bonds merely to escape a small tax.

Mr. MILLS. It is in there.

Mr. STEVENSON. I submit that it is not.

Mr. CHINDBLOM. It is in here now.

Mr. STEVENSON. To prevent his doing that?

Mr. CHINDBLOM. Yes.

Mr. STEVENSON. All right; if it is provided for, what are you kicking about?

Mr. CHINDBLOM. The gentleman's provision would take it out.

Mr. STEVENSON. No; it is not provided for in this particular paragraph.

Mr. CHINDBLOM. Yes; in that paragraph.

Mr. STEVENSON. I think the gentleman is mistaken. He will not find it in this paragraph or the paragraph I seek to amend, on page 44. There is no such provision. This is the whole proposition. You have in here a provision that a man can deduct the interest he has paid, and then you say but having paid out $5,000 interest, and he has held the bonds and collected $3,000 interest, and those bonds are not taxable—and farm-loan bonds are all it will apply to—then he has to deduct that $3,000 from the $5,000 interest that he has paid out, and, therefore, you have taxed the $3,000 indirectly as completely as if you had provided here that he shall be taxed upon the interest of his farm-loan bonds. There is no provision that will prevent it, and the language as written will do that thing.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that all debate upon this amendment close in 15 minutes.

The CHAIRMAN. Is there objection?

Mr. BLANTON. Mr. Chairman, if the gentleman expects to keep us here until 5.30 o'clock, why does he not close the debate now and save 15 minutes?

Mr. GREEN of Iowa. Does the gentleman want to have just one side of the matter presented?

Mr. BLANTON. We have heard it and we all understand it.

Mr. GREEN of Iowa. Oh, no; you do not.

Mr. BLANTON. I am going to vote with the gentleman from Iowa. If he makes a speech, he may make me change my mind.

The CHAIRMAN. Is there objection?

Mr. BLANTON. Mr. Chairman, I object. I think we ought to get along with the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

The amendment was rejected.

The Clerk read as follows:

SEC. 217. (a) In the case of a nonresident alien individual or of a citizen entitled to the benefits of section 262 the following items of gross income shall be treated as income from sources within the United States:

(1) Interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including (A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or (B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the commisioner that less than 20 per cent of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor, or for such part of such period immediately preceding the close of such taxable year as may be applicable;

(2) The amount received as dividends (A) from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation less than 20 per cent of whose gross income is shown to the satisfaction of the commisioner to have been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such corporation, or for such part of such period immediately preceding the close of such taxable year as may be applicable, or (B) from a foreign corporation unless less than 50 per cent of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section;

(3) Compensation for labor or personal services performed in the United States;

(4) Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

(5) Gains, profits, and income from the sale of real property located in the United States.

Mr. HAWLEY. Mr. Chairman, I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Page 48, line 16, after the word "payor," insert "preceding the payment of such interest."

Page 48, lines 16 and 17, strike out the words "immediately preceding the close of such taxable year."

Mr. HAWLEY. Mr. Chairman, this amendment is necessary to make the language conform to other parts of the bill. It is a correction of verbiage.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HAWLEY. I offer the following committee amendment, which I send to the desk.

The Clerk read as follows:

Page 48, line 25, strike out the comma, and on page 49 strike out line 1 and all of line 2 through the word "applicable" and insert in lieu thereof the following: "preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence)."

Mr. HAWLEY. The explanation is that it is to correct verbiage and make the language conform to other parts of the bill.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

(g) (1) Except as provided in paragraph (2) a nonresident alien individual or a citizen entitled to the benefits of section 262 shall receive the benefit of the deductions and credits allowed in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the commissioner may deem necessary for the calculation of such deductions and credits.

(2) The benefit of the credits allowed in subdivisions (d) and (e) of section 216, and of the reduced rate of tax provided for in paragraph (1) of subdivision (b) of section 210, may, in the discretion of the commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

Mr. HAWLEY. Mr. Chairman, I offer an amendment on page 53, in line 8, to take care of the amendment adopted by the House on Tuesday. In line 8, strike out the words "paragraph (1) of subdivision (b)" and substitute in lieu thereof "subdivision (c)."

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAWLEY: Page 53, line 8, strike out the words "paragraph (1) of subdivision (b)" and insert in lieu thereof "subdivision (c)."

Mr. HAWLEY. This merely corrects the text.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INDIVIDUAL RETURNS.

SEC. 223. (a) The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,000 or over, if married and living with husband or wife; and

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income.

Mr. HAWLEY. Mr. Chairman, on page 66, in line 7, I move to strike out "$1,000" and insert "$2,000," and in line 10, to strike out "$2,000" and insert "$3,000."

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAWLEY: Page 66, line 7, strike out "$1,000" and insert in lieu thereof "$2,000." Page 66, line 10, strike out "$2,000" and insert in lieu thereof "$3,000."

Mr. HAWLEY. Mr. Chairman, this is to conform to the action already taken by the committee.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

(b) If a husband and wife living together have an aggregate net income for the taxable year of $2,000 or over, or an aggregate gross income for such year of $5,000 or over—

(1) Each shall make such return, or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

Mr. HAWLEY. Mr. Chairman, on page 66, line 16, I move to strike out the figures "$2,000" and insert "$3,000."

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAWLEY: Page 66, line 16, strike out "$2,000" and insert in lieu thereof "$3,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FIDUCIARY RETURNS.

SEC. 225. (a) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,000 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

(4) Every estate or trust the net income of which for the taxable year is $1,000 or over;

(5) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income; and

(6) Every estate or trust of which any beneficiary is a nonresident alien.

Mr. HAWLEY. Mr. Chairman, I move, on page 67, line 19, to strike out "$1,000" and insert "$2,000," and in line 22 on the same page strike out "$2,000" and insert "$3,000;" and on page 68, line 2, strike out "$1,000" and insert "$2,000."

The CHAIRMAN. The gentleman from Oregon offers amendments, which the Clerk will report.

The Clerk read as follows:

Amendments offered by Mr. HAWLEY: Page 67, line 19, to strike out "$1,000" and insert "$2,000," and on page 67, line 22, strike out "$2,000" and insert "$3,000," and on page 68, line 2, strike out "$1,000" and insert "$2,000."

Mr. HAWLEY. These amendments are made necessary by the action taken previously.

The CHAIRMAN. The question is on agreeing to the amendments.

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

Mr. BLANTON. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. GREEN of Iowa. Oh, I hope the gentleman will not do that. There is no dispute on these matters. I hope the gentleman will let us go on.

Mr. BLANTON. What is the gentleman's program about running to-night?

Mr. GREEN of Iowa. I will stop as soon as there is any serious dispute.

Mr. BLANTON. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONDITIONAL AND OTHER EXEMPTIONS OF CORPORATIONS.

SEC. 231. The following organizations shall be exempt from taxation under this title:

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members, and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit, and any corporation chartered solely for burial purposes as a cemetery corpora-

tion and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Business leagues, chambers of commerce, or boards of trade not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees the membership of which is limited to the employees of a designated person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, and recreational purposes, whether or not for the benefit of the members and their families;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Farmers' or other mutual fire-insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations, or mutual hail or cyclone companies, but only if the income consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses;

(11) Farmers', fruit growers', or like associations organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them; or organized and operated as purchasing agents for the purpose of purchasing supplies and equipment for the use of members and turning over such supplies and equipment to such members at actual cost, plus necessary expenses;

(12) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; and

(13) Federal land banks, national farm-loan associations, and Federal intermediate-credit banks, as provided in the Federal farm loan act, as amended.

Mr. DICKINSON of Iowa. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON of Iowa: On page 73, line 21, strike out section 10 and insert in lieu thereof the following: "(10) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies, mutual or cooperative ditch irrigation companies, mutual telephone companies, or like organizations; but only if the principal sources of income consist of amounts collected from members for the sole purpose of meeting losses and expenses."

Mr. GREEN of Iowa. Mr. Chairman, how would the last line read?

The Clerk read as follows:

But only if the principal source of income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Mr. GARNER of Texas. Let me ask the gentleman from Iowa a question to facilitate business. I understand this is agreed to by the committee on both sides, and the experts have drawn this amendment.

Mr. GREEN of Iowa. The committee has not agreed to it, but personally I think the amendment is all right.

Mr. MILLS. I will say to the gentleman from Texas that this is not the amendment which the experts have approved. The experts approved of an amendment which read "substantially all of the income," while the gentleman from Iowa [Mr. DICKINSON] has changed the language to read "the principal sources of income."

Mr. GREEN of Iowa. If the gentleman from New York will permit, when it was said that the experts agreed to the amendment, it was merely meant that they had drawn the amendment in the form it was desired by those who are presenting it. Of course, if the amendment is offered in the form of "substantially" it might as well not be offered at all.

Mr. DICKINSON of Iowa. If there is any objection to it, I want to make a statement.

Mr. MILLS. I will have some objections to it in that form.

Mr. DICKINSON of Iowa. Mr. Chairman, the principal part of this amendment to which objection is made is the question whether or not the principal sources of income shall be a matter of assessment against the members of mutual or cooperative insurance companies. Now, every once in a while there are some of these companies which have a few thousand dollars which they want to put on time deposit, and they will put it in a bank for a short time on time deposit. If you do not provide that the principal sources of income shall consist of amounts collected from members, you bar them from having those little incidental revenues which they make out of these small matters. The total tax paid by all these companies will probably amount to about $50,000, according to the statement of the Treasury Department.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. NEWTON of Minnesota. Just what term does the gentleman use? The principal sources or the substantial sources?

Mr. DICKINSON of Iowa. The principal sources.

Mr. CHINDBLOM. Mr. Chairman, may we hear the language of the amendment again?

The CHAIRMAN. Without objection, the amendment will be again reported.

The Clerk again read the amendment.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. CHINDBLOM. The words "if the principal sources of income consist of amounts collected from members for the sole purpose of meeting losses and expenses" would include, would they not, a company or an association where the members paid assessments in very much the ordinary way payments are made to insurance companies, and those assessments would be amounts collected?

Mr. GREEN of Iowa. This is intended to apply to assessment companies?

Mr. DICKINSON of Iowa. Only; and that is all that it is intended to apply to.

Mr. GARNER of Texas. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. GARNER of Texas. The gentleman from Iowa, as I understand, wants to relieve these farm organizations and I am in perfect sympathy with him, but if the gentleman will use the word "substantial," then the Treasury Department will have to construe that language. If you use the word "principal" they can take 51 per cent, and if you use the word "substantial" it will probably mean 90 per cent, because I do not imagine they would have more than 10 per cent that they would want to use otherwise than for the purpose of meeting losses and expenses. It looks to me as though the gentleman should use the word "substantial" and then there will be no objection from any source that I know of.

Mr. GREEN of Iowa. If the gentleman from Iowa will permit, I do not think we ought to use the word "substantial." If you use that word you put the Treasury Department in a difficult position and, moreover, you will have the same old trouble that the Treasury Department has been having.

Mr. GARNER of Texas. If the word "principal" is used they will have to construe that word——

Mr. GREEN of Iowa. And they will construe it at 51 per cent.

Mr. GARNER of Texas. But if the word "substantial" is used it will be 90 per cent. I do not want to open up any place in this bill where you can drive a four-horse wagon through it and all insurance companies get away from paying taxes. In the present law the word "solely" is used, while now it is proposed to use the word "principal." As I have said, if the gentleman will use the word "substantial," I think there will be no objection from any source.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. CHINDBLOM. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa have five additional minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Iowa [Mr. DICKINSON] have five additional minutes. Is there objection?

There was no objection.

Mr. CHINDBLOM. I will say to the gentleman from Iowa that as I look upon this amendment it appears to me as though an old-line company could pretty nearly drive in.

Mr. DICKINSON of Iowa. According to all of the interpretations of this amendment that can not be done.

Mr. CHINDBLOM. Let me call attention to the language used. In the first place, the word "mutual" does not mean anything particularly, because some of the old-line companies are mutual. Secondly, you say, "but only if the principal sources of income consist of amounts collected from members." Ordinary premiums are amounts collected.

Mr. DICKINSON of Iowa. No. The Northwestern Mutual Life Insurance Co. does not collect amounts for the purpose of meeting losses and expenses; it collects a regular, standard rate, and everybody knows what they are going to pay. The small mutual companies, which make assessments for the purpose of meeting losses, make the assessments on their members according to the amount of the losses they sustain.

Mr. CHINDBLOM. I know what you are trying to reach, but I am wondering whether your language is not broad enough to cover even the old-line companies.

Mr. DICKINSON of Iowa. This has been gone over by all of these companies and they have an organization and they have been here and have approved of this form. They say this is the form that the Treasury will let them out on. Now, you gentlemen are all willing to let them out and you are not willing to let any other companies out because they have an entirely different method of doing business.

Mr. CHINDBLOM. I am perfectly willing to let them out, but I do not want to do more than that.

Mr. GARNER of Texas. That is the main thing—not to let anybody else out when you let them out. It seems to me this might open the door for others to be let out.

Mr. GREEN of Iowa. I do not think there is any real objection to substituting for the word "amounts" the words "assessments, dues, and fees."

Mr. CHINDBLOM. That would improve it.

Mr. GREEN of Iowa. That would make it, beyond all question, so it could not apply to the others.

Mr. DICKINSON of Iowa. I would rather not make that substitution because I know they have some objection to it.

Mr. GREEN of Iowa. Mr. Chairman, I did not think we were going to get into any conflict over this matter and inasmuch as we have, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GRAHAM of Illinois, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes, and had come to no resolution thereon.

MEMORIAL SERVICES FOR THE LATE PRESIDENT HARDING.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent, on behalf of the gentleman from Ohio [Mr. BURTON], that there may be printed in the RECORD the program of arrangements for the memorial services for the late President Harding.

The SPEAKER. The gentleman from Ohio asks unanimous consent that there may be printed in the RECORD the program of the memorial services for the late President Harding. Is there objection? [After a pause.] The Chair hears none.

[For program, see Senate proceedings of to-day, page 2808.]

HOUR OF MEETING TO-MORROW—ORDER OF BUSINESS.

Mr. GREEN of Iowa. Mr. Speaker, let me ask the gentleman from Texas [Mr. GARNER] whether there would be any objection to meeting at 11 o'clock to-morrow morning.

Mr. GARNER of Texas. There seems to be some opposition to it over here. Let me ask the gentleman from Ohio and the gentleman from Iowa now, if I may, about another matter. Of course, every Member of this House wants to be here when this bill is finally voted on in the House. What is the prospect of a vote in the House? I was talking to one or two Republicans this afternoon, and they suggested that under no conditions could we have a vote earlier than next week, upon the theory that many gentlemen had gone away with the understanding we would not pass this bill prior to Monday or Tuesday. What is the idea of the majority leader and the chairman of the Ways and Means Committee?

Mr. GREEN of Iowa. I think we can certainly finish the reading of the bill this week, but it might be possible that we would not be able to get to a vote until next Monday.

Mr. GARNER of Texas. We have appropriation bills that could be considered. Suppose we have an agreement then that we will not take this bill up in the House for final passage prior to Tuesday of next week?

Mr. GREEN of Iowa. I would not want to agree to that if we could just as well dispose of it Monday.

Mr. GARNER of Texas. Very well; we will say Monday, then.

Mr. GREEN of Iowa. Will the gentleman from Texas give me overnight to think about that?

Mr. GARNER of Texas. Certainly. That is just the point. I simply want to accommodate the Members who are away, as well as those who might want to go away that are here now.

Mr. GREEN of Iowa. Mr. Speaker, for certain reasons, I will ask unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock.

The SPEAKER. The gentleman from Iowa asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p. m.) the House adjourned until to-morrow, Thursday, February 21, 1924, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

371. A letter from the Secretary of War, transmitting a draft of proposed legislation, "On and after July 1, 1925, when in the opinion of the Secretary of War the change of station of an officer of the Corps of Engineers is primarily in the interest of river and harbor improvement, the mileage and other allowances to which he may be entitled incident to such change of station may be paid from appropriations for such improvement"; to the Committee on Military Affairs.

372. A letter from the chairman of the Interstate Commerce Commission, transmitting a report for the month of January, 1924, showing the condition of railroad equipment and the related information indicated in the resolution in so far as such information is available; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WINSLOW: Committee on Interstate and Foreign Commerce. H. R. 7034. A bill to establish in the Bureau of Foreign and Domestic Commerce of the Department of Commerce a foreign commerce service of the United States, and for other purposes; with amendments (Rept. No. 214). Referred to the Committee of the Whole House on the state of the Union.

Mr. WINSLOW: Committee on Interstate and Foreign Commerce. H. R. 6817. A bill to provide for the construction of a vessel for the Coast Guard; without amendment (Rept. No. 215). Referred to the Committee of the Whole House on the state of the Union.

Mr. FAIRFIELD: Committee on Insular Affairs. H. R. 6143. A bill to purchase grounds, erect and repair buildings for customhouses, offices, and warehouses in Porto Rico; without amendment (Rept. No. 216). Referred to the Committee of the Whole House on the state of the Union.

Mr. WURZBACH: Committee on Military Affairs. H. R. 593. A bill authorizing the issuance of service medals to officers and enlisted men of the two brigades of Texas cavalry organized under authority from the War Department under date of December 8, 1917, and making an appropriation therefor; and further authorizing the wearing by such officers and enlisted men on occasions of ceremony of the uniform lawfully prescribed to be worn by them during their service; with amendments (Rept. No. 217). Referred to the Committee of the Whole House on the state of the Union.

Mr. KIESS: Committee on Printing. H. R. 7039. A bill to amend section 72 of chapter 23, printing act, approved January 12, 1895; without amendment (Rept. No. 218). Referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Interstate and Foreign Commerce was discharged from the consideration of the bill (H. R. 4438) to amend section 300 of the war risk insurance act, and the same was referred to the Committee on World War Veterans' Legislation.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NEWTON of Minnesota: A bill (H. R. 7143) granting the consent of Congress to the city of Minneapolis, a municipal corporation, organized under the laws of the State of Minnesota, to construct a bridge across the Mississippi River in the city of Minneapolis, in the State of Minnesota; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS of Michigan: A bill (H. R. 7144) to relinquish to the city of Battle Creek, Mich., all right, title, and interest of the United States in two unsurveyed islands in the Kalamazoo River, within the corporate limits of said city; to the Committee on the Public Lands.

By Mr. ABERNETHY: A bill (H. R. 7145) granting the Fort Macon (N. C.) Military Reservation to the State of North Carolina; to the Committee on Military Affairs.

By Mr. KAHN: A bill (H. R. 7146) to amend section 9 of an act entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. BOYLAN: A bill (H. R. 7147) to prohibit the collection of a surcharge for the transportation of persons or baggage in connection with the payment for parlor or sleeping car accommodations; to the Committee on Interstate and Foreign Commerce.

By Mr. COLTON: A bill (H. R. 7148) providing for the location, entry, and patenting of lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite or other like substances, and for other purposes; to the Committee on the Public Lands.

By Mr. MORTON D. HULL: A bill (H. R. 7149) to provide for the admission to the mails as second-class matter of periodical publications issued by regularly incorporated religious associations; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 7150) to provide for the admission to the mails as second-class matter of periodical publications issued by regularly incorporated religious associations; to the Committee on the Post Office and Post Roads.

By Mr. KNUTSON: A bill (H. R. 7151) to promote and preserve the navigability of Cass Lake in the State of Minnesota; to the Committee on Agriculture.

Also, a bill (H. R. 7152) to provide for the payment of claims of Chippewa Indians of Minnesota for back annuities; to the Committee on Indian Affairs.

By Mr. WELLER: A bill (H. R. 7153) to amend the Penal Code; to the Committee on the Judiciary.

By Mr. TINKHAM: A bill (H. R. 7154) to reimburse the Commonwealth of Massachusetts for expenses incurred in compliance with the request of the United States marshal, dated December 6, 1917, to the Governor of Massachusetts in furnishing the State military forces for duty on and around Boston Harbor under regulation 13 of the President's proclamation; to the Committee on the Judiciary.

Also, a bill (H. R. 7155) to reimburse the Commonwealth of Massachusetts for expenses incurred in protecting bridges on main railroad lines and under direction of the commanding general Eastern Department, United States Army, and the commandant navy yard, Charlestown, Mass.; to the Committee on Claims.

By Mr. CANNON: A bill (H. R. 7156) providing for the purchase of a site and the erection of a public building at Vandalia, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. PORTER: Joint resolution (H. J. Res. 195) authorizing an appropriation for the participation of the United States in two international conferences for the control of the traffic in habit-forming narcotic drugs; to the Committee on Foreign Affairs.

By Mr. CRAMTON: Resolution (H. Res. 184) to pay salary and funeral expenses of William E. Gardiner, late an employee in the folding room of the House of Representatives; to the Committee on Accounts.

By Mr. JOHNSON of Washington: Resolution (H. Res. 185) to provide for additional copies of hearings on "Restriction of immigration"; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLOOM: A bill (H. R. 7157) for the relief of Clarence F. Birkett; to the Committee on Claims.

By Mr. BOYLAN: A bill (H. R. 7158) for the relief of Charles F. Brown; to the Committee on Claims.

By Mr. ELLIOTT: A bill (H. R. 7159) granting a pension to Margaret A. Pool; to the Committee on Invalid Pensions.

By Mr. FULMER: A bill (H. R. 7160) for the relief of J. S. Corbett; to the Committee on Claims.

By Mr. GLATFELTER: A bill (H. R. 7161) granting an increase of pension to Harriet Gardner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7162) granting an increase of pension to Adacinda Kurtz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7163) granting an increase of pension to Mary J. Fishel; to the Committee on Invalid Pensions.

By Mr. HOCH: A bill (H. R. 7164) granting an increase of pension to Charlotte A. Daily; to the Committee on Invalid Pensions.

By Mr. HUDSPETH: A bill (H. R. 7165) granting a pension to Matilda Guest; to the Committee on Pensions.

Also, a bill (H. R. 7166) granting a pension to J. H. Thompson; to the Committee on Pensions.

By Mr. LINEBERGER: A bill (H. R. 7167) for the relief of George A. Berry; to the Committee on Naval Affairs.

By Mr MAGEE of New York: A bill (H. R. 7168) granting a pension to Louise Martz; to the Committee on Invalid Pensions.

By Mr. MINAHAN: A bill (H. R. 7169) granting a pension to James Walsh; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 7170) granting a pension to Clarie Herley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7171) granting a pension to Irvin E. Browning; to the Committee on Invalid Pensions.

By Mr. ROBINSON of Iowa: A bill (H. R. 7172) granting a pension to Joseph J. Nedd; to the Committee on Pensions.

By Mr. SEARS of Florida: A bill (H. R. 7173) for the relief of J. N. Lummus and C. L. Huddleston; to the Committee on Claims.

By Mr. SNELL: A bill (H. R. 7174) granting an increase of pension to Lucy A. Cooley; to the Committee on Invalid Pensions.

By Mr. TREADWAY: A bill (H. R. 7175) granting a pension to Rosa C. Allen; to the Committee on Invalid Pensions.

By Mr. WILSON of Mississippi: A bill (H. R. 7176) for the relief of Charles N. Robinson; to the Committee on Claims.

By Mr. WINGO: A bill (H. R. 7177) granting a pension to Mary J. Walston; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1217. By the SPEAKER (by request): Petition of National Woman's Party, favoring the equal rights amendment to the Constitution; to the Committee on the Judiciary.

1218. Also (by request), petition of Bay Ridge Council, A. A. R. I. R., approving the Robinson resolution and urging that every step be taken to detect anyone who may have participated in the big oil swindle; to the Committee on the Public Lands.

1219. Also (by request), petition of Waverly Council, No. 138, Junior Order United American Mechanics (Inc.), urging the enactment into law of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1220. Also (by request), petition of the Pennsylvania State Camp, Patriotic Order Sons of America, favoring the 3 per cent immigration restriction quota bill; to the Committee on Immigration and Naturalization.

1221. Also (by request), petition of 38 residents of Long Island, N. Y., favoring an increase of compensation being granted to postal employees; to the Committee on the Post Office and Post Roads.

1222. By Mr. ALDRICH: Petition of Loggia Riunite del North End, No. 908, Order Sons of Italy, Providence, R. I., protesting against the passage of the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1223. By Mr. BARBOUR: Petition of the Dos Palos (Calif.) National Farm Loan Association, relative to certain changes in the Federal Farm Loan Board; to the Committee on Banking and Currency.

1224. Also, petition of the Memorial Baptist Church, of Fresno, Calif., urging the passage of the Kelly bill (H. R. 4123) in the interest of postal employees; to the Committee on the Post Office and Post Roads.

1225. By Mr. BURTNESS: Petition of residents of Mayville, N. Dak., in favor of establishing free shooting grounds and game refuges; to the Committee on Agriculture.

1226. By Mr. CULLEN: Petition of New York State Teachers' Association for Social Studies, favoring an appropriation for the preservation of the castle at Fort Niagara; to the Committee on Appropriations.

1227. By Mr. FULLER: Petition of G. D. Brush and 32 other citizens of Kingston and De Kalb County, Ill., favoring repeal or reduction of the so-called nuisance taxes, and especially of the tax on industrial alcohol; to the Committee on Ways and Means.

1228. By Mr. GALLIVAN: Petition of M. Matuson, Roxbury, Mass., recommending early and favorable action on the Kelly-Stephens bill, which requires that all package merchandise or patent medicines shall be sold at not less than the stated price on the package; to the Committee on Interstate and Foreign Commerce.

1229. Also, petition of Washington Central Labor Union, Washington, D. C., recommending early and favorable consideration of the Fitzgerald-Jones workmen's accident compensation bill; to the Committee on the District of Columbia.

1230. Also, petition of New Century Club, Boston, Mass., protesting against Johnson immigration bill; to the Committee on Immigration and Naturalization.

1231. By Mr. HUDSON: Petition of the Detroit Conference of the Methodist Episcopal Church, opposing the weakening of the Volstead Act by any nullifying scheme of so-called light wines and beer; to the Committee on the Judiciary.

1232. By Mr. KING: Petition of Alfred Curtis Cady, of Kewanee, Ill., asking to have public debt paid rather than more money loaned to foreign countries; to the Committee on Ways and Means.

1233. Also, petition of the auxiliary of Shearer Post, No. 350, of Geneseo, Ill., American Legion, declaring themselves unequivocally in favor of the adjusted compensation bill; to the Committee on Ways and Means.

1234. By Mr. LEAVITT: Petition of the Glendive (Mont.) Chamber of Commerce, urging that the Sixty-eighth Congress pass no legislation touching the present railroad situation, and especially disapproving of any attempt to modify any existing provisions of the transportation act of 1920, which it is felt has not been in effect a sufficient length of time to give it a fair trial; to the Committee on Interstate and Foreign Commerce.

1235. Also, petition of I. M. Hobensack, of Lewistown, Mont., outlining the problems of the wheat farmer in Montana and other States of the Northwest; to the Committee on Agriculture.

1236. By Mr. O'CONNELL of Rhode Island: Petition of members of the Loggia Riunite del North End, No. 908, Order Sons of Italy, Providence, R. I., opposing the Johnson immigration bill; to the Committee on Immigration and Naturalization.

1237. By Mr. ROUSE: Petition of citizens of Covington, Ky., requiring that all strictly military supplies be manufactured in the Government-owned navy yards and arsenals; to the Committee on Naval Affairs.

1238. By Mr. STRONG of Pennsylvania: Petition of citizens of Jefferson County, Pa., urging the removal or reduction of nuisance and war taxes; to the Committee on Ways and Means.

SENATE.

THURSDAY, *February 21, 1924.*

(Legislative day of Saturday, February 16, 1924.)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed the bill (S. 2189) to authorize the building of a bridge across the Peedee River in North Carolina, between Anson and Richmond Counties, near the town of Pee Dee, with amendments, in which it requested the concurrence of the Senate.

INTERIOR DEPARTMENT APPROPRIATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 5078) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1925, and for other purposes.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Adams	Capper	Edwards	Harris
Ashurst	Caraway	Ernst	Harrison
Ball	Colt	Ferris	Heflin
Bayard	Copeland	Fess	Howell
Borah	Couzens	Fletcher	Johnson, Minn.
Brandegee	Cummins	Frazier	Jones, N. Mex.
Brookhart	Curtis	George	Jones, Wash.
Broussard	Dale	Gerry	Kendrick
Bruce	Dial	Glass	King
Bursum	Dill	Gooding	Ladd
Cameron	Edge	Hale	La Follette
Lenroot	Norris	Sheppard	Swanson
Lodge	Oddie	Shipstead	Trammell
McKinley	Overman	Shortridge	Wadsworth
McLean	Pepper	Simmons	Walsh, Mass.
McNary	Phipps	Smith	Warren
Mayfield	Pittman	Smoot	Weller
Moses	Ransdell	Spencer	Wheeler
Neely	Reed, Pa.	Stanley	Willis
Norbeck	Robinson	Stephens	

The PRESIDENT pro tempore. Seventy-nine Senators have answered to their names. There is a quorum present.

HOWARD UNIVERSITY.

Mr. CURTIS. Mr. President, unless the chairman of the subcommittee in charge of the bill desires to submit some remarks, I would like to occupy about two minutes on the question of the rule.

Mr. SMOOT. Mr. President, I understand that the Presiding Officer does not particularly care to rule upon the point of order made by the Senator from North Carolina [Mr. OVERMAN], but intends to submit it to the Senate for the Senate to vote upon it.

I recognize that there is a grave doubt about the rule. In fact, I might as well say now that I think the rule ought to be amended so that there will be no question about what it means; but that can not be done at this time.

Therefore, if there is no objection on the part of the Senator from North Carolina, I will ask that no ruling be made at this time, and that the bill go back to the committee with the understanding that I shall immediately report the bill back with that item omitted. Then, when we reach the consideration of the bill, after the committee amendments are disposed of, some member of the committee will report that amendment as coming from the committee, and we can get a direct vote upon it and thus not have a ruling or a vote of the Senate as to what the rule means.

Mr. ROBINSON. The point of order could be raised on the amendment when it is presented by a member of the committee?

Mr. SMOOT. No; I do not think so. I think that is quite clear, as it does not involve the question of new legislation.

Mr. MOSES. Does the Senator mean that when the amendment comes in in that way we will get a direct vote on the merits of the question?

Mr. SMOOT. Yes; on the merits of the question.

Mr. LENROOT. Mr. President, I suggest to the Senator from Utah that he will raise a new parliamentary question if that is done, and that is whether the rule can be avoided by the committee not reporting an amendment when it reports the bill, but afterwards reporting an amendment which it would be prohibited from reporting originally.

Mr. ROBINSON. That is the suggestion I rose to make.

Mr. SMOOT. We will discuss that question when we reach it. I think there is no doubt that under the rule it can be done, and the question might as well be settled at the same time when we are settling the question now before the Senate. I think it is of the utmost importance that the course I have proposed should be followed.

Mr. CURTIS. Mr. President, I did not intend to say anything with reference to the amendment, but I think one remark of the Senator from Utah makes it necessary for me to say a word or two on the rule.

The amendment to the rule in question was reported by me from the Committee on Rules, and I think it is as clear as day. When all appropriation bills were ordered sent to the Committee on Appropriations the rule was adopted with the view of preventing any kind of legislation, new or general, being reported by the committee as an amendment to an appropriation bill. The matter was fully discussed upon the floor, the provision was fully explained, and the reasons for incorporating it in the rule were given to the Senate at the time the amended rule was adopted.

There is no question that the rule means that no legislation, new or general, can be reported as an amendment to an appropriation bill by the Committee on Appropriations. I say this notwithstanding that I am for the amendment to the appropriation bill; but I would have to vote that the amendment is out of order because of the rule, which was so carefully considered by the entire membership of the Committee on Rules, reported back to the Senate, and discussed on the floor very fully, and every Senator who heard the discussion knew just what the rule meant.

Mr. MOSES. Let me ask the Senator a question. He is a great parliamentarian——

Mr. CURTIS. No; I am not a great parliamentarian, but I know what a thing means when I report it.